

The Delta Stewardship Council intends to adopt an interim plan at its meeting of August 27, 2010. There will be three (3) draft versions of the plan prior to the final action; this draft is the second.

The Council solicits electronic communications specifically directed to the various drafts of the interim plan as described below.

All comments will be posted on the DSC web site, and staff and consultants are directed to review and consider submitted comments in preparation of revised versions of this plan, in addition to testimony delivered at public hearings of the council.

Pursuant to the council action on May 27, 2010, focused work groups may be utilized to develop language or alternatives to sections of this plan.

# SECOND DRAFT INTERIM PLAN

**Prepared for consideration by the Delta Stewardship Council**

*California Water Code Section 85084*

**July 14, 2010**

**Not reviewed by or approved by the  
Delta Stewardship Council**

**Send comments to [interimplan@deltacouncil.ca.gov](mailto:interimplan@deltacouncil.ca.gov).**

Comments received by Monday, July 19, will be provided to Council members for their meeting July 22-23. All comments received by Tuesday, August 3, 2010, will be considered for revisions made in developing the Third Draft Interim Plan. All comments received are posted to the Delta Stewardship Council web site:  
<http://www.deltacouncil.ca.gov/>



# Executive Summary

## Introduction

In November 2009, the California Legislature enacted SBX7 1 (Act), one of several bills passed related to water supply reliability, ecosystem health, and the Delta. The Act adds Division 35, the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act) and creates the Delta Stewardship Council (Council) as an independent agency of the state. The Act charges the Council “to develop, adopt, and commence implementation of the Delta Plan...”, a comprehensive management plan for the Delta, no later than January 1, 2012.

The law also directs the Council to develop an Interim Plan and include recommendations for early actions, projects, and programs. It is the intent of the Council that this Interim Plan provide a framework to fulfill the requirements of the law, taking preliminary steps toward addressing the crisis in the Sacramento-San Joaquin Delta and the water resources and infrastructure of the state of California.

Although no legislative deadline was given, the Council has set August 27, 2010, as the date for adoption of the Interim Plan, recognizing the pressing obligation of meeting the legislative Delta Plan deadline. Work on the Delta Plan has begun while the Interim Plan is being finalized.

This draft Interim Plan is the second developed for Council’s consideration. Comments received on this draft will be reviewed by the Council for incorporation in the Third Draft and Final Interim Plan.

## Legislative Findings Concerning the Delta

The key legislative findings and declarations of the Delta Reform Act constitute a clear judgment that:

The Sacramento-San Joaquin Delta watershed and California’s water infrastructure are in crisis and existing Delta policies are not sustainable. Resolving the crisis requires fundamental reorganization of the state’s management of Delta watershed resources... It is the intent of the Legislature to provide for the sustainable management of the Sacramento-San Joaquin Delta ecosystem, to provide for a more reliable water supply for the state, to protect and enhance the quality of water supply from the Delta, and to establish a governance structure that will direct efforts across state agencies to develop a legally enforceable Delta Plan. (Water Code Section 85001)

## Statutory Adoption of Coequal Goals

Additionally, the Legislature advanced several broad goals, including the *coequal goals*, a concept central to understanding the Delta Reform Act and the state’s policy for the Delta:

- (a) Achieve the two coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.
- (b) Protect, maintain, and, where possible, enhance and restore the overall quality of the Delta environment, including, but not limited to, agriculture, wildlife habitat, and recreational activities.

- (c) Ensure orderly, balanced conservation and development of Delta land resources.
- (d) Improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety.

## **Statutory Adoption of Objectives Inherent in Coequal Goals**

These coequal goals are further expressed in the eight policy objectives set forth in the Delta Reform Act, which “the legislature declares are inherent in the coequal goals for management of the Delta” (WC Section 85020):

- (a) Manage the Delta’s water and environmental resources and the water resources of the state over the long term.
- (b) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.
- (c) Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.
- (d) Promote statewide water conservation, water use efficiency, and sustainable water use.
- (e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.
- (f) Improve the water conveyance system and expand statewide water storage.
- (g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.
- (h) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.

The Act establishes new policies – including reduced reliance on the Delta in meeting California’s future water supply needs in the future through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency – and also affirms that the “longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta.”

## **Consideration of Early Actions in the Interim Plan**

The Council has the authority to make recommendations on early actions and has initiated processes to advance some early actions discussed in the Act, including defining its role in relationship to the BDCP steering committee and selecting a consultant to provide related advice, and establishing relationships and coordination groups with other federal, state, and local agencies.

Recognizing that it will be required to make recommendations on a wide range of activities before adoption of the Delta Plan by January 2012, the Council concluded that the Interim Plan must provide a framework to guide its actions during this period. The Council intends to give highest priority to issues that require action regardless of whether, or on what schedule, action occurs on major ecosystem restoration or improvements in conveyance, or decisions are made on new bonds.

## Uses of the Interim Plan

The Interim Plan is intended to provide a framework for early actions, inform Council responsibilities and recommendations, and provide a linkage and smooth transition to the Delta Plan.

## Framework for Early Actions

The Interim Plan will outline processes the Council will use to develop its recommendations for early actions, projects, and programs. The Interim Plan can also inform the work of other agencies as the Delta Plan is developed. Early actions identified in the Act include:

- Delta flow criteria assigned to the Department of Fish and Game (DFG) for recommendations and the State Water Resources Control Board (SWRCB)
- Responsibilities of the Department of Water Resources (DWR), including efforts to cooperate in the construction and implementation of the Two-Gates Fish Protection Demonstration Project by December 1, 2010; evaluating the effectiveness of the Threemile Slough Barrier project; proceeding with other near-term actions as identified in the *Delta Vision Strategic Plan*; and assisting in implementing early action ecosystem restoration projects, including tidal marsh restoration in Dutch Slough and on Meins Island
- Preparation of a proposal to coordinate flood and water supply operations of the State Water Project (SWP) and the federal Central Valley Project (CVP), for which DWR has lead responsibility
- Council review of the report of the Delta Protection Commission (DPC) regarding potential changes in the Primary and Secondary Zones of the Delta, in light of the coequal goals and the mandates of the Act
- Completion of the economic sustainability plan by the DPC no later than July 1, 2011
- Development of the DPC's proposal "...to protect, enhance, and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place, in a manner consistent with the coequal goals"

## Inform Council Responsibilities and Recommendations

The Interim Plan will inform Council advice to—or review of the recommendations of—other agencies, including: advice to local and regional planning agencies, and review and approval of Proposition 1E expenditures for selected projects.

Additionally, the Interim Plan will include important organizational and procedural matters that will assist the Council in its role as a responsible agency in development of the environmental impact report (EIR) for BDCP and potentially as an appellate body regarding the DFG determination of whether BDCP has met specified criteria.

The Council will be asked to comment on projects and plans affecting the Delta that are undergoing environmental review, and those reviews should be based on the full range of policy objectives and responsibilities included in the Act. Draft procedures for this are included in Appendix I.

## Provide Linkage to the Delta Plan

It is important that the Interim Plan provide a framework that transitions well to the Delta Plan. The first requirement for smooth transition is consistency in use of legal authority provided in the Act. Second,

the Council work processes described and defined by the Interim Plan should continue with minimal modification in the Delta Plan. Third, the relationships developed with other agencies under the Interim Plan should remain effective as the Delta Plan is implemented.

The flow of activities from (1) work plan through (2) Council action to (3) listing of completed actions under the Interim Plan is expected to continue under the Delta Plan. Under the framework provided by the Interim Plan, the Council will make no regulatory actions, and the Delta Plan will identify and select among alternative actions to satisfy requirements of the Delta Reform Act. Section III provides additional information on Interim Plan processes and procedures, including provision for amendment at the Council's discretion.

## Interim Plan Processes

Section III of the Interim Plan outlines procedures and process the Council will use, many of which can carry forward to implementation of the Delta Plan and can also serve to structure the Council's work in developing the Delta Plan. To effectively meet its responsibilities and manage its work flow, the Council will develop:

1. Provisions for amendment at the Council's discretion.
2. A plan to engage agencies whose activities are related and affected by the requirements of SBX7 1 with the goal of effective communication of the activities of the Council under the Act.
3. Formalized procedures for core, repetitive responsibilities of the Council, including reviews of proposed actions and plans. Appendix I includes adopted procedures for Council meetings, procedures for bringing actions before the Council, and three draft procedures for required appeals and reviews.
4. A formal annual or biannual work plan to provide the structure by which the Council uses its resources most effectively and manages relationships with others to achieve its goals. A draft work plan is included as Appendix III.
5. Structured decision processes, which may vary by categories of decisions

In addition, Council decisions will adhere to these principles and procedures:

1. The Council will hear "conceptual" proposals as informational items at its discretion but will not act on conceptual proposals nor will the Council issue "in concept" approvals
2. Robust procedures to ensure transparency and adequate opportunities for interested parties and the public to participate in decision making, including availability of information related to a decision well before the meeting at which it is considered
3. Use of the best available science.
4. Consideration of any project or decision against all eight policy objectives in accordance with basic legal authorities as summarized by Appendix IV.
5. Consideration of technical and legal feasibility, consistency or conflicts with other programs, and ability to implement in timely manner for a specified schedule.
6. Use of seven framework tools as a basis for analysis and development of performance measures.

7. Commitment to make progress on all eight policy objectives over roughly similar time frames, with roughly equivalent certainty regarding effectiveness.
8. The Council will issue specific written findings and decisions as required by law or otherwise within its discretion

## Analytical Tools for Council Action under the Sacramento-San Joaquin Delta Reform Act of 2009

Section IV provides a framework for organizing available information as a basis for Council action in a wide range of activities under the Interim Plan. The framework relies on seven tools with which to organize and assess critical information:

1. **Best available science.** Use of “best available science” or “best available scientific information” is required in the Act and the two terms are treated equivalently here. In Section IV, the use of “best available science” as a tool and the roles of the Science Program and Independent Science Board are discussed; procedures for the use of best available science in decision making of the council are considered in Section III.
2. **Delta water flows.** The Delta flow criteria developed by the SWRCB with contributions of the DFG will be one of the early considerations of Delta water flow. Over time, additional information will be added.
3. **Delta ecosystem restoration plan.** Actions taken to restore the Delta ecosystem are expected to include at least changes in water flows, water quality, and land forms and uses. The CALFED Ecosystem Restoration Program provides tools and processes for evaluating and guiding decision making about restoration actions under the Interim Plan. These include the program’s Strategic Plan and the Delta Regional Ecosystem Restoration Implementation Plan conceptual models. The *Delta Vision Strategic Plan* includes approximately 40 ecosystem performance measures organized around five policy strategies. To the extent possible, these (or other) measures of ecosystem function can be combined into summary indices.
4. **Current levee system integrity.** All uses of the Delta require a certain level of protection against river flooding, sea level rise, and earthquakes. The Interim Plan must ensure progress toward congruence between the uses and resources at risk and the levees that provide protection. Pending the development of more detailed information on levee conditions and policies, this Interim Plan uses the levee classification system developed during development of the *Delta Vision Strategic Plan*, and now used by DWR and others.
5. **Map of planned Delta land uses.** One of the primary goals of the Act is to achieve more effective integration of land use policies in the Delta. Many plans and projects can affect the land forms and land uses in the Delta, including work on flood management policies affecting levees; flood ways and allowable land uses; patterns of land use allowed under the policies of the DPC and local governments; ecosystem restoration projects; improved water conveyance; and other infrastructure investments. Among the existing plans shaping land uses in the Delta are county and city general plans and zoning, county Habitat Conservation Plans, and the DPC Land Use and Resource Management Plan, among others. The Council intends to develop a map of existing Delta land uses as a tool to begin to show and integrate the effects of land use policies.
6. **Finance plan.** The Act does not address financing operations of the Council, the Delta Conservancy, or the DPC, nor does it provide financing for actions recommended by these bodies. The issue of

adequate financing must be addressed. The Interim Plan can make progress on two important beginning points in a finance plan: (1) beginning to develop accurate and complete information on current finances and (2) initiating discussion of long-term financing to support activities under the Act.

7. **Indicators of progress in meeting California’s future water supply needs on a regional basis.** This tool is intended to summarize progress in satisfying Water Code Section 85021, which states: “The policy of the State of California is to reduce reliance on the Delta in meeting California’s future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water...” This will require information about the regional efforts, and information developed for the *Delta Vision Strategic Plan* could provide a conceptual starting point.

These seven tools focus on core responsibilities of the Council to achieve the coequal goals and organize much of what will be required for decision making. They do not include all elements required for Council action. None of the tools will be fully developed by August 27, 2010, when the Interim Plan is scheduled to be adopted by the Council. However, they will inform Council work under the Interim Plan and may be amended over time.

## Conclusion

In adopting this Interim Plan, the Council clearly conveys its commitment to meeting its obligations under the Delta Reform Act.

The Council seeks strong working relationships with agencies and stakeholders in developing an effective Delta Plan that can also serve as many of their missions and goals as possible within the scope of the Act. Important components of those effective working relationships are procedures that ensure transparency and robust procedures for early consultation that are used consistently.

Finally, implementation of the Interim Plan requires full consideration of public input. Opportunities have been and will continue to be provided for the public to engage in the development and implementation of the Interim Plan.



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SECOND DRAFT INTERIM PLAN – JULY 14, 2010

## I. Introduction

In November 2009, the California Legislature enacted SBX7 1 (Act), one of several bills passed at this time related to water supply reliability, ecosystem health, and the Delta. The Act became effective on February 3, 2010. The Act adds Division 35 (commencing with Section 85300) to the Water Code. This division is known as the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act). The Act creates the Delta Stewardship Council (Council) as an independent agency of the state (Water Code Section 85200). SBX7 1 also revises the Public Resources Code (sections 29702 through 29780, and adds Division 22.3) specifying changes to the Delta Protection Commission (DPC) and creating the Delta Conservancy. The Act charges the Council with the development of a Delta Plan, a comprehensive management plan for the Delta, by January 1, 2012. Water Code Section 85084 directs the Council to first develop an Interim Plan and include recommendations for early actions, projects, and programs. It is the intent of the Council that this Interim Plan provide a framework to fulfill the requirements of Section 85084, taking preliminary steps toward addressing the crisis in the Sacramento-San Joaquin Delta and the water resources and infrastructure of the state of California.

The Council considered the Interim Plan outline and two draft versions of the Interim Plan in the development of the adopted Interim Plan. Verbal and written comments received by the Council on the outline and first and second draft versions were greatly appreciated and considered in development of this version of the Interim Plan.

## Background

Formed by the confluence of the state's two longest rivers—the Sacramento and the San Joaquin—the Delta is one of the most valuable and unique natural resources in the state. Over the past 120 years, demands for water and land resources have become more competitive between ecosystem resources, agricultural users, municipal and industrial users, power generators, and flood management operations in the watershed. The Delta is the source of drinking water for nearly two-thirds of the state's population; it is home to more than half a million residents; its flows contribute to state's multi- billion agricultural industry, as well as to the commercial salmon fishing industry; and its islands and waterways form important habitat for hundreds of plant and animal species. Additionally, the estuary draws tourists and recreationists from around the state and the world, adding further value to the state's economy. The Delta also contains major infrastructure of statewide importance, including aqueducts, natural gas pipelines, electricity transmission lines, railroads, shipping channels, and highways.

Despite the Delta's importance, the challenges of effectively addressing both water supply and ecosystem needs have led to increased conflicts over time. Even with the passage of the federal and state Endangered Species Acts, ever-more-rigorous water quality laws, and federal and state environmental protection acts, the natural resources of the Delta are not effectively protected, nor are reliable supplies of water being provided for many who are dependent on exports through the Delta. The challenges in meeting these often-competing uses are compounded by new scientific information suggesting increased risks from climate change, which is causing sea level rise—changing water levels and salinity in the Delta—and the potential for increased flooding along Delta rivers. This new science also indicates the risk of major seismic events, with the potential to cause devastating impacts on public health, safety, and welfare, is greater than previously understood.

Some examples of these challenges are highlighted in the following discussion.

## Declining Water Supply Reliability and Water Quality

The Delta Vision Strategic Plan concluded that the state's water supply is not growing, but the demand continues to rise. Population and economic activity are projected to increase water demands at a time when water supplies are projected to become more variable due to uncertain hydrologic conditions. Despite evidence of efficiency improvements, technological advancements, and increased attention and action by policymakers, more water must be conserved to meet tomorrow's demands, as well as to address today's water shortages and the Delta ecosystem's declining conditions.

Delta water quality is also important to support a wide range of beneficial uses from ecosystem habitat to water supplies to recreation. The needs of these beneficial uses vary widely. Water quality in the Delta is highly variable and influenced by inflows from the rivers, seawater intrusion and tidal action, and general water circulation that is influenced by channel formation and diversions by local agencies and the State Water Project (SWP) and the Central Valley Project (CVP). Compounds are introduced into waters that flow through the Delta from general runoff in the watershed, agricultural drainage and flows, stormwater and wastewater discharges, industrial diversions and discharges, and groundwater inflow into the Delta waters. Some aquatic species remove and/or contribute compounds that may be beneficial or harmful to Delta beneficial uses. The tidal cycle mixes saline, brackish, and fresh waters twice daily and the mixing zone can extend for miles into the Delta, especially during periods when inflows from the tributaries are low.

Water quality has been a concern in the Delta since the late 1880s, when water users considered methods to reduce the adverse impact of high salinity intrusion into the central Delta near Antioch and the south Delta near Stockton and Manteca. Studies conducted over the past 120 years to reduce the impacts of salinity on municipal, industrial, and agricultural users have considered saltwater tidal gates near Suisun Bay, methods to improve water circulation in the Delta, and facilities to convey water from the Sacramento River to the San Joaquin River.

Examples of water supply and quality concerns include:

- Water quality is likely one significant limiting factor in overall ecosystem health. Comparatively low levels of dissolved organic carbon in Delta waters may be a limiting factor on biological productivity in certain areas. Toxins, pollutants, and low dissolved oxygen levels have all been found to damage habitat quality for various aquatic organisms. Current salinity patterns may be enabling the survival of non-native species that are not adapted to the Delta's formerly more variable seasonal salinity.
- Other likely significant limiting factors for ecosystem health are water flows and the timing of those flows. Over the past several decades, studies have incorporated flows, including reverse flows in Old and Middle rivers, and the effects on salinity and turbidity. Recently, studies have been initiated to identify the effects of potential other stressors on beneficial uses of the aquatic habitat and water supplies.
- Projections for climate change in the next 50 years indicate that temperatures and sea levels will rise throughout California. The sea level rise will increase salinity intrusion into the Delta. These changes could reduce available water supplies from the tributaries, require additional flows to be released from reservoirs to maintain water quality for the ecosystem and agricultural users, and modify use of specific areas in the Delta by aquatic species that could further reduce the usefulness of the SWP and CVP southern Delta intakes.

- Overall urban water use has doubled over the last 40 years as a result of growth in several urban sectors including population, landscape irrigation, and industry. DWR estimates that, under current population and use trends, overall urban use will increase 33 percent by 2030.<sup>1</sup>

## Declining Ecosystem Health

The Delta ecosystem has been dramatically altered from its pre-Gold Rush conditions by many factors. Additionally, sudden events such as an earthquake or flood could dramatically alter the physical habitat of the Delta by destroying levees, with unpredictable effects. More gradual changes, such as sea level rise, rising water temperatures due to climate change, or additional invasions of exotic species, also could transform the current ecosystem in ways that are difficult to anticipate or manage, thus complicating the prospect of restoration.

Throughout most of the Delta and Suisun Marsh, land and water are separated by levees. This is a profound change from past eras, where water and land mixed freely across virtually the entire Delta. Most ecosystem processes of the past relied upon periodic pulses of tides, fresh water, and nutrients across the landscape at varying frequencies and intensities, driven by tides or seasonal, high river flows. The Delta of today, by contrast, is largely a channelized system, where farmlands, homes, and infrastructure are protected from water by levees, preventing these ecologically productive mixtures. Partly because of this separation of land and water, much of the Delta landscape has subsided as much as 25 feet below sea level, making its restoration to a pre-Gold Rush condition (even if judged desirable) physically infeasible. Examples of ecosystem health concerns and considerations include:

- Inflow patterns from the rivers have been sharply altered by the construction of large dams on most of the tributaries and the associated water project operations. The net effect of this change has been to make the Delta more constant in its salinity levels across the seasons than in past eras. It has also reduced the magnitude of channel-forming flood flows that formerly deposited sediment and altered channel configurations throughout the Delta.
- The construction of numerous cross-cut canals in the Delta may have had the effect of homogenizing aquatic ecosystems by reducing the physical habitat diversity of channels and limiting the residence time of certain key nutrients and other ecological resources.
- Entrainment of large numbers of fish, eggs, larvae, and nutrients occurs in the south Delta intakes of the SWP and CVP pumping plants, especially at peak pumping periods when there are reverse flows in Middle and Old Rivers in the south Delta. Entrainment also occurs at other water diversion points throughout the Delta, although to a lesser extent because of the individual capacities of each diversion as compared to the SWP and CVP pumping plants.
- There has been a sudden and dramatic crash of several pelagic (i.e., open-water) fish species in the last decade. The causes of this crash are disputed, but likely include, in some combination, the monopolization of the food chain by non-native species, the historically high levels of water export through the major south Delta pumps in the last two decades, the introduction of toxins and other pollutants into the Delta through river inflows, and the accumulated loss of breeding and rearing habitat.

<sup>1</sup> (1) DWR and California Department of Food and Agriculture. "Current Water Use Efficiency Policy and Programs and Estimate of Agricultural and Urban Water Use." Report prepared for the Delta Vision Task Force, 2008. (2) Groves, Matyac, and Hawkins. "Quantified Scenarios of 2030 California Water Demand." Prepared for the California Water Plan Update 2005.

- 1 • The aquatic ecosystem of the Delta is now dominated by invasive species, to the detriment of  
2 increasingly endangered native species such as the delta smelt. Some studies have found that  
3 benthic (i.e., bottom-dwelling) biomass in the Delta is 95 percent composed of non-native species,  
4 and the Delta has been characterized as one of the most invaded estuaries in the world.
- 5 • Changes in aquatic habitat and water quality have led to regulatory requirements to protect  
6 threatened and endangered species listed under the federal and state endangered species acts.  
7 Biological opinions, court orders, species recovery plans, mitigation plans, and conservation plans all  
8 seek to improve conditions for the fish and wildlife that depend on the Delta. The requirements  
9 have restricted both quantity and timing of diversions by the SWP and CVP southern Delta intakes,  
10 especially when anadromous fish and estuarine fish are present near the intakes near the Old River  
11 system of the San Joaquin River. As the listed aquatic species continue to decline, the regulatory  
12 requirements have continued to reduce the extent of operations for the SWP and CVP pumping  
13 plants.
- 14 • The Delta is still home to a wide variety of birds, mammals, reptiles, and amphibians, but all of these  
15 animals must exist within smaller patches of habitat than in previous eras. The Suisun Marsh alone  
16 contains more than 10 percent of California’s remaining wetlands, and is a critical wintering and  
17 nesting area along the Pacific Flyway.

## 18 **Threats to the Delta Communities and Economy**

19 The Delta is a significant region with a distinctive social, cultural, and natural heritage. The Delta’s  
20 predominant land use is agriculture, especially within the primary zone defined by the Delta Protection  
21 Act of 1992. The primary zone also contains the small unincorporated communities—“legacy towns”—of  
22 Clarksburg, Courtland, Hood, Locke, and Ryde. These historically significant sites possess a rural charm  
23 and slow pace of life that are attractive to many visitors. The secondary zone encompasses a large area  
24 ranging from West Sacramento in the north, to Stockton in the southeast, and Pittsburg in the west.  
25 Until the recent economic downturn, this zone was characterized by rapidly expanding suburban  
26 development. Examples of concerns and considerations include:

- 27 • The Delta Protection Act also created the Delta Protection Commission (DPC), and it requires that  
28 land development proposals within the Delta primary zone be consistent with the DPC’s Delta  
29 Resource Management Plan. Since the passage of the Delta Protection Act, no new tract-scale  
30 housing development has occurred within the primary zone, much of which is deeply subsided and  
31 at high flood risk. Future economic development initiatives in the Delta must continue to recognize  
32 the inherent risks in primary-zone development proposals, and even many secondary-zone  
33 proposals. Some past and pending development projects in the secondary zone are in locations that  
34 could compromise flood protection for existing Delta islands and residents by constraining  
35 floodways and limiting flood-fighting options.
- 36 • The Delta also contains major infrastructure of statewide importance, including aqueducts, natural  
37 gas pipelines, electricity transmission lines, railroads, shipping channels, and highways. The potential  
38 cost of a mass failure of this infrastructure to the state’s economy is difficult to estimate, but is  
39 certainly in the tens of billions of dollars.

## 40 **Unreliable Storage and Conveyance**

41 The Delta provides a wide range of water-related benefits to all of California from in-stream, riparian,  
42 and tidal marsh ecosystem habitat; drinking water supplies to more than 25 million California residents;

and irrigation water supplies for lands in the Central Valley, South Bay Area, Central Coast, and Southern California. These benefits to urban, agricultural, and environmental water users depend on a reliable water conveyance system and statewide storage system.

The need for improved and reliable conveyance between the Sacramento and San Joaquin rivers has been evaluated in numerous reports by the California Department of Water Resources (DWR) and the Bureau of Reclamation (Reclamation) since the 1950s. In the 1960s, the Peripheral Canal was proposed, but it ultimately was rejected by the voters of California in 1982. During preparation of the CALFED environmental impact report/environmental impact statement (EIR/EIS), alternative conveyance options were considered but as part of a second phase after completion of studies and implementation of pilot studies to improve water supply reliability and water quality for central and southern Delta water users and the SWP and CVP. Considerations for storage and conveyance include:

- Prior to development of water resources facilities, anadromous fish were attracted upstream during storm events from fall through the spring. The storm flows also provided pulse flows to move fish downstream from the upper reaches of the streams and high flows to reduce salinity intrusion into the Delta. Development of water storage and conveyance facilities modified the flow patterns by shifting peak river flows from fall through spring months to summer months. Construction of levees eliminated many wetland and shallow water zones where spawning and rearing of estuarine species occurred. Levee maintenance programs also eliminated riparian vegetation that provided shade for temperature control and protection from ultraviolet radiation. These changes affected anadromous fish species and Delta water quality patterns. Operation of the SWP and CVP pumping plants in the Delta also changed flow patterns in the central and southern Delta.
- A portion of the water released from upstream SWP and CVP reservoirs is currently used to maintain specified salinity in the western Delta to be protective of the ecosystem that supports the listed aquatic species. The amount of flow used to maintain the salinity objectives also reduces the amount of water available for export by the SWP and CVP facilities.
- Some climate change projections indicate the presence of more frequent and intense storm events. These conditions in conjunction with the aging levee conditions increase the risk of levee failure, especially during storm and seismic events. Massive levee failures could be difficult to repair and cause saltwater intrusion into the Delta that could only be reversed over a long period of time using high volumes of fresh water from upstream reservoirs or storm events. Increased salinity would substantially degrade the Delta aquatic habitat, Delta water supplies, and recreation.
- Additional storage, both upstream and downstream of the Delta, and conveyance around the Delta would provide flexibility for water operations to provide a reliable water supply for the ecosystem and agricultural and municipal and industrial water users. Upstream storage could provide benefits for storage of flows during flood events that could later be released to meet Delta inflow and outflow requirements and local and statewide water supplies. Downstream storage could provide flexibility to store water that would be diverted from the upstream area and/or the Delta during high flow events for later use. Currently, many areas that use SWP and CVP water do not have adequate water storage south of the Delta to provide water supplies for extended periods of time if the Delta water supplies are disrupted.

## Increasing Risks to People, Property, and Infrastructure

The risks to people, property, and state interests in the Delta stem from potential failures of levees that protect land areas and define water channels within the Delta, and from inadequate emergency preparedness from floods and other emergencies such as fire.

Levee failures can occur during high Delta water inflow, earthquakes, and even undetected levee problems during normal conditions. Levee failures not only create direct damage and potential loss of life from flooding, but also change the configuration (water and land) of the Delta and mixing of fresh water with salt water. These temporary or long-term changes influence water supply, the ecosystem, and other Delta uses. Climate change is likely to compound the risk of levee failures from increases in storm runoff to the Delta and from a rise in sea level that will place more pressure on Delta levees, unless the levees are substantially improved to accommodate these changes. The potential for catastrophic failures of many Delta levees simultaneously has only recently been analyzed quantitatively and is not yet addressed by a policy for sustainability.

Beyond the risk of actual levee failures, the annual high water and high wind events in the Delta require local reclamation districts to conduct emergency levee patrols and flood fights to address levee overtopping issues. These events create considerable costs and, if not adequately addressed, can lead to extensive damage and even to a levee failure. If the challenge is beyond local capability, DWR emergency assistance may be requested.

Risk is defined as the product of the probability of an event occurring and the consequences of the event. The Delta Risk Management Strategy (DRMS) (DWR, 2008) is the most recent estimation of the risks associated with Delta levee failures. While DRMS was based on available data with no new subsurface geotechnical investigations, it provides an indication of the severity of levee failures that could be expected from high inflows to the Delta, seismic events, and unexpected “sunny day” failures. Some pertinent facts that influence risk of Delta levee failures include:

- The main flood management facilities include about 1,100 miles of levees in the Delta and about 230 miles of levees in the Suisun Marsh and the Yolo Bypass. The Delta also relies on levees, bypasses, and dams in the upstream watershed.
- Because the Delta is an estuary with so much land below sea level, water is constantly exerting pressure against the levees. Therefore, levees can fail at any time for various reasons, including the burrowing activities of animals, long-term erosion (from high flow events, wind-induced waves, and boat wakes), seepage along imbedded objects (such as pipes), seepage through sand layers in the levees or in underlying levee foundations, increased water pressure caused by island subsidence, deferred maintenance, floods, and seismic events.
- DWR has primary responsibility for maintaining federal flood control project facilities throughout the Central Valley, including “project levees” located in the Delta. Project levees formerly certified for Federal Emergency Management Agency (FEMA) 100-year level of protection are under review and some have been decertified. More than 700 miles, or 65 percent, of Delta levees are classified as “non-project” because they are not part of an authorized federal flood control project. These levees have been built and maintained by landowners or reclamation districts, initially to protect agricultural lands. More recently, their impact on ecosystem and water supply reliability has been recognized. They are almost never as durable as the project levees.
- Most Delta islands have flooded at least once. There were 31 levee failures in the legal Delta between 1967, when levees were improved to current levels, and 2004, somewhat less than an



average of one per year. There are more levee breaks and floods in Suisun Marsh, where levees are commonly built to lower levels of protection.<sup>2</sup>

- Most of the Delta levees do not meet the FEMA definition for 100-year flood protection (per the National Flood Insurance Program). Many do not yet meet the minimum requirements to be eligible for federal disaster assistance.
- Historically, the levee work by reclamation districts was financed by the owners of the lands within the levees. Over about the last 30 years, the State of California has provided supplemental financing for levee maintenance and emergency response through DWR's Flood Control Subventions Program. Additional assistance has become available more recently through DWR's Special Flood Control Projects Program.

## The Complexities of Governing the Delta

Passage of the Delta Reform Act was a response to widespread criticism of weak governance capacity. Among the major assessments of the weaknesses were a major report by the Little Hoover Commission, *Still Imperiled, Still Important* (2005), the work of Delta Vision, *Delta Vision Strategic Plan*, a review *Implementation Status of the CALFED Bay-Delta Program, Years 1 through 5*<sup>3</sup> by the California Department of Finance, and analyses and recommendation from the California Legislative Analyst, including *Reforming the CALFED Bay-Delta Program* (2006).<sup>4</sup> Additionally, an audit was completed by the California Department of Finance, as reported in *A FISCAL REVIEW: CALFED Bay-Delta Program Summary of Expenditures as of September 30, 2004*.<sup>5</sup>

Addressing the crisis in the Delta will require not only addressing important physical and biological processes and socioeconomic drivers, but coordination and integration among the multiple regulatory processes and actions, administered by more than 240 separate agencies with separate and occasionally overlapping authorities, already in place. A short summary from the *Delta Vision Strategic Plan* (2008, page 121) notes: "When viewing the current governance structures in the Delta three key points emerge: state interests are neither clearly expressed nor effectively pursued, literally hundreds of federal, state and local governmental entities share responsibility for the Delta and its resources, and no one entity is responsible for managing important state interests."

SBX7 1 provides important new tools to address the widely accepted inadequacies of prior governance of the Delta. The reforms launched in the Act are substantial and offer promise of more effective action. They are initiated at time when many agree action is needed, but important stakeholders disagree on the meaning of the enacted legislation. Concurrently, the state's fiscal future looks bleak for many years, which means that financing aspects of the legislation will be uncertain. Lack of a stable financing structure may lead to difficulty in achieving the coequal goals.

<sup>2</sup> Information from US Army Corps of Engineers compiled by Nicole Suard, comment to Delta Stewardship Council, June 2010.

<sup>3</sup> [http://www.dof.ca.gov/osae/special\\_reviews/documents/Cal\\_Fed\\_report\\_FINAL\\_w.pdf](http://www.dof.ca.gov/osae/special_reviews/documents/Cal_Fed_report_FINAL_w.pdf)

<sup>4</sup> [http://www.lao.ca.gov/analysis\\_2006/resources/res\\_02\\_anl06.html](http://www.lao.ca.gov/analysis_2006/resources/res_02_anl06.html)

<sup>5</sup> [http://www.dof.ca.gov/osae/audit\\_reports/documents/CBDA\\_Fiscal-Review\\_Final.pdf](http://www.dof.ca.gov/osae/audit_reports/documents/CBDA_Fiscal-Review_Final.pdf)

## Recent and Ongoing Actions Reflect Urgency and Momentum for Change

These challenges, and many others, are anticipated to increase over time, adding to the urgency to find and implement solutions to make the system more sustainable. Examples of past, current, and proposed actions include:

- Following construction of the SWP and CVP, the State Water Resources Control Board (SWRCB) considered and adopted numerous decisions and associated water rights orders for operations of the projects to identify minimum water flow and water quality conditions at specified locations in the Delta to be maintained in part through the operation of the SWP and CVP in accordance with the Coordinated Operations Agreement (COA) that was adopted by the state Legislature and Congress. Most recently, the SWRCB adopted Decision 1641 to implement the 1995 Bay-Delta Plan.
- In 1988, the SWRCB draft Water Quality Control Plan included specific water efficiency requirements as part of a plan to improve water supply reliability and Delta ecosystem health. Although this plan was not adopted, these efforts led to the formation of the California Urban Water Conservation Council in 1992 and development of a Memorandum of Understanding between water suppliers throughout the state. There are more than 200 voluntary water supplier signatories to this Memorandum of Understanding to implement water conservation plans. Agricultural users formed the Agricultural Water Management Council and developed a Memorandum of Understanding Regarding Efficient Water Management Practices by Agricultural Water Suppliers in California. In 2006, there were more than 60 signatories to this Memorandum of Understanding.
- Since 1993, the National Marine Fisheries Service and U.S. Fish and Wildlife Service (USFWS) have issued several biological opinions that address modifications of the SWP and CVP operations to avoid jeopardizing the continued existence of salmonid, steelhead, sturgeon, associated populations of killer whales, and Delta smelt species that are listed in accordance with the federal Endangered Species Act. Many of the suggested reasonable and prudent action provisions are related to methods to modify Delta flows and water quality to provide increased levels of protection for the listed species.
- The 2000 CALFED Record of Decision (ROD) recognized the importance of ecosystem restoration for the Delta. Subsequently, CALFED, DWR, DFG, Reclamation, U.S. Fish and Wildlife Service (USFWS), and other agencies implemented several programs to initiate ecosystem restoration studies and projects including the Ecosystem Restoration Program, Interagency Ecological Program, studies for Suisun Marsh Preservation Agreement, Delta Pumping Plant Fish Protection Agreement, and San Joaquin River Restoration Program.
- The CALFED ROD also identified five potential storage projects to be considered as part of a comprehensive plan to restore ecological health and improve water management for beneficial uses in the Bay-Delta system, including expansion of Shasta Lake, Sites Reservoir, In-Delta Storage, Upper San Joaquin River Storage, and expansion of Los Vaqueros Reservoir. DWR and Reclamation initiated the Integrated Storage Investigations to evaluate the feasibility of these programs. Many of these programs had been identified for potential expansion of storage upstream of the Delta for more than 80 years, primarily to provide flood management ability and water supplies.
- The DWR California Water Plan Update 2005 provided a framework for action to manage water resources in a sustainable manner with a range of tools, including diversification of regional water

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portfolios, integrated regional water management, remediation, and use of local surface water and groundwater supplies that support statewide sustainable water supplies.

- The Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary establishes objectives for the protection of the estuary's beneficial uses from the effects of salinity (from saltwater intrusion and agricultural drainage) and water project operations (flows and diversions). The SWRCB is currently updating this plan in accordance with the Strategic Workplan published in July 2008. The Workplan addresses several activities that could directly or indirectly affect Delta water quality. The SWRCB actions for many of these activities are to be completed by 2012, with several issues to be addressed by mid-2013. These issues also are being addressed by the BDCP as part of the development of the Habitat Conservation Plan and Natural Community Conservation Plan.
- Two programs—the Delta Levees Subventions and Delta Levees Special Flood Control Projects—recently have received substantial increases in appropriations (increase by factors of 2 and 10, respectively) due to funds that have become available from Propositions 84 and 1E. Collectively, the programs have revised their guidelines and Proposal Solicitation Packages to reflect this extra funding and to apply and make more specific the priorities established by the appropriating legislation. Generally stated, these priorities place strong emphasis on levee maintenance and initial improvements that are most closely aligned with the State's interests.
- In February 2008, Governor Schwarzenegger sent a letter to Senators Perata, Machado, and Steinberg outlining an approach to improve water supply reliability and Delta ecosystem health. The letter described several key elements, including a plan to achieve a 20 percent reduction in per capita water use statewide by 2020, subsequently referred to as "20X20." DWR established a 20X20 Team that includes SWRCB, California Energy Commission, Department of Public Health, and California Public Utilities Commission. Reclamation and the California Urban Water Conservation Council also participate with the 20X20 Team.
- Governor Schwarzenegger's 2008 letter directed DWR and other state agencies to evaluate Delta water conveyance alternatives. These alternatives include (1) continuation of conveying water through existing Delta channels; (2) conveyance using a new isolated facility that would divert water in the North Delta and convey water to the southern Delta or the SWP and CVP pumping plants; (3) a combined "dual conveyance" option that would continue to convey water through existing Delta channels and utilize a new isolated conveyance facility; and (4) continuation of conveying water through existing Delta channels following armoring of critical levees to protect the water supply corridor. The letter also required DWR to complete the Integrated Storage Investigations for Temperance Flats (Upper San Joaquin River Storage), Sites Reservoir, and expanded Los Vaqueros reservoir. Additionally, the BDCP Habitat Conservation Plan and Natural Communities Conservation Plan efforts are currently evaluating numerous conveyance options along with measures to improve the ecosystem and reduce the effects of other stressors.
- The federal agencies agreed in a December 2009 Interim Federal Action Plan for the California Bay-Delta to coordinate the federal efforts to address ecosystem restoration with the state agencies.
- The Bay Delta Conservation Plan (BDCP) Habitat Conservation Plan and Natural Community Conservation Plan process is conducting a detailed evaluation of methods for ecosystem restoration including development of methods to conduct effects analyses.

1 These examples demonstrate the enormous efforts and resources which have already worked toward  
2 addressing the challenges in the Delta. Despite this, the California Legislature’s 2009 water package  
3 made clear findings about the ongoing crisis in the Delta and proposed coordinating these efforts  
4 through a new governance system with specific responsibilities.

## 5 **Statutory Findings Concerning the Delta**

6 The key legislative findings and declarations of the Delta Reform Act constitute a clear judgment that the  
7 water supply of California and the Delta ecosystem are “...in crisis and existing Delta policies are not  
8 sustainable”. Water Code Section 85001 states [The Legislature finds and declares...]:

- 9 (a) The Sacramento-San Joaquin Delta watershed and California’s water infrastructure  
10 are in crisis and existing Delta policies are not sustainable. Resolving the crisis  
11 requires fundamental reorganization of the state’s management of Delta watershed  
12 resources....
- 13 (b) In response to the Delta crisis, the Legislature and the Governor required  
14 development of a new long-term strategic vision for managing the Delta. The  
15 Governor appointed a Blue Ribbon Task Force to recommend a new “Delta Vision  
16 Strategic Plan” to his cabinet committee, which, in turn, made recommendations for  
17 a Delta Vision to the Governor and the Legislature on January 3, 2009.
- 18 (c) By enacting this division, it is the intent of the Legislature to provide for the  
19 sustainable management of the Sacramento-San Joaquin Delta ecosystem, to  
20 provide for a more reliable water supply for the state, to protect and enhance the  
21 quality of water supply from the Delta, and to establish a governance structure that  
22 will direct efforts across state agencies to develop a legally enforceable Delta Plan.

## 23 **Statutory Adoption of Coequal Goals**

24 Additionally, the Legislature advanced several broad goals, including the *coequal goals*, a concept  
25 central to understanding the Delta Reform Act and the state’s policy for the Delta (Section 29702):

- 26 (a) Achieve the two coequal goals of providing a more reliable water supply for  
27 California and protecting, restoring, and enhancing the Delta ecosystem. The  
28 coequal goals shall be achieved in a manner that protects and enhances the unique  
29 cultural, recreational, natural resource, and agricultural values of the Delta as an  
30 evolving place.<sup>6</sup>
- 31 (b) Protect, maintain, and, where possible, enhance and restore the overall quality of  
32 the Delta environment, including, but not limited to, agriculture, wildlife habitat,  
33 and recreational activities.
- 34 (c) Ensure orderly, balanced conservation and development of Delta land resources.
- 35 (d) Improve flood protection by structural and nonstructural means to ensure an  
36 increased level of public health and safety.

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<sup>6</sup> Identical language is found in WC Section 85054, and other references are also found in law.

## Statutory Adoption of Objectives Inherent in Coequal Goals

These coequal goals are further expressed in the eight policy objectives set forth in the Delta Reform Act, which “the legislature declares are inherent in the coequal goals for management of the Delta” (WC Section 85020):

- (a) Manage the Delta’s water and environmental resources and the water resources of the state over the long term.
- (b) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.
- (c) Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.
- (d) Promote statewide water conservation, water use efficiency, and sustainable water use.
- (e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.
- (f) Improve the water conveyance system and expand statewide water storage.
- (g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.
- (h) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.

The Act establishes new policies – including reduced reliance on the Delta in meeting California’s future water supply needs in the future through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency (Water Code section 85021). The Act explicitly does not change a number of existing laws – such as area of origin, watershed of origin, county of origin, or any other water rights protections (Water Code section 85301(a)), or the California Endangered Species Act (Water Code section 85032(b)), among others. It also affirms “The longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta.” (Water Code Section 85023).

## The Delta Stewardship Council and its Mission

The Delta Reform Act creates the Delta Stewardship Council (Council) as an independent agency of the state (Water Code Section 85200). SBX7 1 also revises the Public Resources Code (sections 29702 through 29780, and adds Division 22.3) specifying changes to the Delta Protection Commission (DPC) and creating the Delta Conservancy. The Delta Reform Act gives the Council several responsibilities, many linked to a comprehensive “Delta Plan,” which the Council is charged to develop, adopt, and commence implementation of by January 1, 2012. The Council is also charged with developing an Interim Plan “...that includes recommendations for early actions, projects, and programs” (Water Code Section 85084). Although no legislative deadline was given, the Council has set August 27, 2010, as the

date for adoption of the Interim Plan, recognizing the pressing obligation of meeting the legislative Delta Plan deadline. Both the DPC and Delta Conservancy are given roles with respect to the management of the Delta and providing input to the Delta Plan.

## Consideration of Early Actions in the Interim Plan

The Act discusses “early actions” in Water Code Sections 85080 through 85089, assigning several to other agencies. The Council completed the only required early action solely within its powers by appointing a Delta Independent Science Board on June 24, 2010 (Water Code Section 85080).

The Council also has basis to make recommendations on early actions called for in Water Code section 85084. The Council has initiated processes to advance other early actions, including:

- To assist in meeting its responsibilities as a responsible agency and its appellate role for the Bay Delta Conservation Plan (BDCP), the Council has defined its role in relationship to the BDCP steering committee and is selecting a consultant to provide advice specific to BDCP
- Relationships with other federal, state and local agencies, making progress on the requirements of Water Code Section 85082 (engaging federal agencies) and Section 85204 (establishing an agency coordination group), among others

Some early actions identified in the Act and assigned to other agencies include dates for completion (July 2010 through December 2010), but most are ongoing actions or projects with no specified completion date. In all cases, it will take time and effort to understand these and other proposed projects within the new context of the Act. Recognizing that it will be required to make recommendations on a wide range of activities before adoption of the Delta Plan by January 2012, the Council concluded that the Interim Plan must provide a framework to guide its actions during this period. It is the intent of the Council that this Interim Plan will provide an effective framework within which the Council can consistently assess and prioritize important issues until the Delta Plan is adopted. The Council intends to use the eight policy objectives (WC 85020) as a foundation for the framework. Although the framework may transition smoothly for use in the Delta Plan, the Interim Plan will not provide the Council a basis for decision making of equivalent impact as will a Delta Plan adopted after completing environmental review processes.

Successful implementation of new legislation as substantial as SBX7 1 requires not only launching new entities and activities but also adjusting the roles and activities of existing agencies operating under different authorities, with separate legislative mandates, funding streams, and constituencies. All affected state and local agencies have responsibility now to undertake activities in conformity with the Act.

**In addition to providing a framework for the Council’s actions, this Interim Plan informs the actions of agencies as they incorporate provisions of SBX7 1 into their activities until the Delta Plan is adopted. Council work on “early actions” will appropriately continue under the framework of the Interim Plan and on the schedule established in the Council’s work plan. The Council intends to give highest priority to issues that require action regardless of whether, or on what schedule, action occurs on major ecosystem restoration or improvements in conveyance, or decisions are made on new bonds.**

Work on the Delta Plan has begun while the Interim Plan is being finalized. The Council has decided to structure both documents around the common set of policy objectives contained in Water Code Section 85020, and the Delta Plan is expected to build on the Interim Plan.

# Organization of the Interim Plan

This Interim Plan is organized in four sections, plus an Executive Summary:

- Executive Summary
- Section I. Introduction
- Section II. Uses of the Interim Plan
- Section III. Interim Plan Processes
- Section IV. Tools for Council Action under the Sacramento-San Joaquin Delta Reform Act of 2009

A list of acronyms and abbreviations used in this Interim Plan is included at the end of the document, preceding the appendices.

This draft Interim Plan includes five appendices. Appendix I includes Council administrative policies and procedures. Appendix II lists “Council-approved Actions,” which will provide a legal record of actions by the Council until the Delta Plan is adopted. It will include, for example, naming members to the Independent Science Board, any actions taken in regard to approval of the economic sustainability plan of the Delta prepared by the DPC (Public Resources Code Section 29761.5(b)), actions regarding the BDCP (Water Code Section 85320(e)), and adoption of the Interim Plan itself (Section 85084).

Appendix III is a work plan for the Council, identifying issues to be considered with target dates for action by the Council.

Appendix IV lists the basic legal authorities of the Council, organized by policy objective (Water Code Section 85020).

Appendix V lists strategies and actions from the Delta Vision Strategic Plan and other sources, which the Council may consider during development of the Delta Plan.

This draft Interim Plan is the second developed for Council’s consideration. Comments received on this draft will be reviewed by the Council for incorporation in the Third Draft and Final Interim Plan.





## II. Uses of the Interim Plan

The Interim Plan is intended to have three uses. First, it will serve as the primary framework for the Council until the Delta Plan is adopted and implementation begins. The framework will include a process and establish the tools the Council will use to develop its recommendations for early actions, projects, and programs identified in SBX7 1. Second, it will inform and assist the Council with its responsibilities in relation to other agencies, as required in SBX7 1 or elsewhere. Third, it will provide linkage to the Delta Plan by establishing legal authority, work processes and procedures, and ways to build effective relationships.

## Framework for Early Actions

The Interim Plan will outline processes the Council will use to develop its recommendations for early actions, projects, and programs. Many early actions identified in SBX7 1 are assigned to other agencies, but the Interim Plan can, in most cases, inform the work of other agencies as the Delta Plan is developed. The Interim Plan also will inform actions of the Council and how the Council will deal with the issues required in the Delta Plan. Early actions identified in the Act include:

- Recommendations for new Delta flow criteria assigned to the Department of Fish and Game (DFG) for recommendations in Section 85084.5, including “...quantifiable biological objectives for aquatic and terrestrial species of concern dependent on the Delta,” and a report by the State Water Resources Control Board (SWRCB) in Section 85086(c)(1)
- Responsibilities of the Department of Water Resources (DWR) under Section 85085, including:
  - Efforts to cooperate in the construction and implementation of the Two-Gates Fish Protection Demonstration Project by December 1, 2010
  - Evaluating the effectiveness of the Threemile Slough Barrier project
  - Proceeding with other near-term actions as identified in the *Delta Vision Strategic Plan*, including modification of fish protection facilities at Clifton Court Forebay, ecosystem restoration opportunities such as improved floodplain in the Yolo Bypass, and improved emergency preparedness and response
  - Assisting in implementing early action ecosystem restoration projects, including tidal marsh restoration in Dutch Slough and on Meins Island
- Preparation of a proposal to coordinate flood and water supply operations of the State Water Project (SWP) and the federal Central Valley Project (CVP) (Section 85309), for which DWR has lead responsibility
- Review of the report of the DPC regarding potential changes in the Primary and Secondary Zones of the Delta, in light of the coequal goals and the mandates of the Act
- Completion of the economic sustainability plan by the DPC no later than July 1, 2011 (Public Resources Code Section 29759) to be reviewed by the Council for consistency with the Delta Plan (Section 29761.5(b))

- Development of the DPC’s proposal “...to protect, enhance, and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place, in a manner consistent with the coequal goals” (Water Code Section 85301)

## **Inform Council Responsibilities and Recommendations**

The Interim Plan will inform Council advice to—or review of the recommendations of—other agencies, including:

- Advice to local and regional planning agencies (Water Code Section 85212)
- Review and approval of Proposition 1E expenditures for selected projects (Section 83002 (a)(1))

Additionally, the Interim Plan will include important organizational and procedural matters that will assist the Council in its role as a responsible agency in development of the environmental impact report (EIR) for BDCP (Section 85320(c)) and potentially as an appellate body regarding the DFG determination of whether BDCP has met specified criteria (Section 85320(e)).

The Council will be asked to comment on projects and plans affecting the Delta that are undergoing environmental review, and those reviews should be based on the full range of policy objectives and responsibilities included in the Act. The Council has directed staff to develop procedures for this purpose; these draft procedures are included in Appendix I of this Interim Plan.

## **Provide Linkage to the Delta Plan**

It is important that the Interim Plan provide a framework that transitions well to the Delta Plan. The first requirement for smooth transition is consistency in use of legal authority provided in the Act. Second, the Council work processes described and defined by the Interim Plan should continue with minimal modification in the Delta Plan. Third, the relationships developed with other agencies under the Interim Plan should remain effective as the Delta Plan is implemented.

The flow of activities from (1) work plan through (2) Council action to (3) listing of completed actions under the Interim Plan is expected to continue under the Delta Plan. Under the framework provided by the Interim Plan, the Council will make no regulatory actions, and the Delta Plan will identify and select among alternative actions to satisfy requirements of the Delta Reform Act. Section III provides additional information on Interim Plan processes and procedures, including provision for amendment at the Council’s discretion.

### III. Interim Plan Processes

Neither statutes nor plans are self-executing; they require focused and sustained actions by responsible public agencies for success. This section of the Interim Plan outlines procedures and process the Council will use, many of which can carry forward to implementation of the Delta Plan and can also serve to structure the Council's work in developing the Delta Plan.

To effectively meet its responsibilities and manage its work flow, the Council will develop:<sup>7</sup>

1. Provisions for amendment at the Council's discretion
2. A plan to engage agencies whose activities are related and affected by the requirements of SBX7 1 with the goal of effective communication of the activities of the Council under the act
3. Formalized procedures for core, repetitive responsibilities of the Council , included in Appendix I
4. A formal annual or biannual work plan for Council implementation, included in Appendix III
5. Structured decision processes, which may vary by categories of decisions

### Provision for Amendment

This Interim Plan can be amended by majority vote of the Council membership at any regularly scheduled meeting of the Council.

### Engage and Establish Working Relationships with Agencies

The Sacramento-San Joaquin Delta Reform Act of 2009 includes provisions requiring the Council to engage state, local, and federal agencies and establishes processes to that end. Outreach to agencies whose activities are affected by SBX7 1 will begin under the Interim Plan and will continue during implementation of the Delta Plan.

The statutory requirements for working with other agencies include:

85082. The council shall develop and implement a strategy to appropriately engage participation of the federal agencies with responsibilities in the Delta. This strategy shall include engaging these federal agencies to develop the Delta Plan consistent with the federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451 et seq.), the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), and Section 8 of the federal Reclamation Act of 1902.

85204. The council shall establish and oversee a committee of agencies responsible for implementing the Delta Plan. Each agency shall coordinate its actions pursuant to the Delta Plan with the council and the other relevant agencies.

85212. The council shall review and provide timely advice to local and regional planning agencies regarding the consistency of local and regional planning documents, including

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<sup>7</sup> Additional implementation features will be developed in the Delta Plan, including for adaptive management responsive to Water Code Section 85308(f).

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sustainable communities strategies and alternative planning strategies prepared pursuant to Section 65080 of the Government Code, with the Delta Plan. The council's input shall include, but not be limited to, reviewing the consistency of local and regional planning documents with the ecosystem restoration needs of the Delta and reviewing whether the lands set aside for natural resource protection are sufficient to meet the Delta's ecosystem needs. A metropolitan planning organization preparing a regional transportation plan under Section 65080 of the Government Code that includes land within the primary or secondary zones of the Delta shall consult with the council early in the planning process regarding the issues and policy choices relating to the council's advice. No later than 60 days prior to the adoption of a final regional transportation plan, the metropolitan planning organization shall provide the council with a draft sustainable communities strategy and an alternative planning strategy, if any. Concurrently, the metropolitan planning organization shall provide notice of its submission to the council in the same manner in which agencies file a certificate of consistency pursuant to Section 85225. If the council concludes that the draft sustainable communities strategy or alternative planning strategy is inconsistent with the Delta Plan, the council shall provide written notice of the claimed inconsistency to the metropolitan planning organization no later than 30 days prior to the adoption of the final regional transportation plan. If the council provides timely notice of a claimed inconsistency, the metropolitan planning organization's adoption of the final regional transportation plan shall include a detailed response to the council's notice.

85225. A state or local public agency that proposes to undertake a covered action, prior to initiating the implementation of that covered action, shall prepare a written certification of consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and shall submit that certification to the council.

85225.5. To assist state and local public agencies in preparing the required certification, the council shall develop procedures for early consultation with the council on the proposed covered action.

85300(a) ...The Delta Plan may also identify specific actions that state or local agencies may take to implement the subgoals and strategies.

(b) In developing the Delta Plan, the council shall consult with federal, state, and local agencies with responsibilities in the Delta. All state agencies with responsibilities in the Delta shall cooperate with the council in developing the Delta Plan, upon request of the council.

85301. (a) The commission shall develop, for consideration and incorporation into the Delta Plan by the council, a proposal to protect, enhance, and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place, in a manner consistent with the coequal goals. For the purpose of carrying out this subdivision, the commission may include in the proposal the relevant strategies described in the Strategic Plan.

(b) (1) The commission shall include in the proposal a plan to establish state and federal designation of the Delta as a place of special significance, which may include application for a federal designation of the Delta as a National Heritage Area.

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(2) The commission shall include in the proposal a regional economic plan to support increased investment in agriculture, recreation, tourism, and other resilient land uses in the Delta. The regional economic plan shall include detailed recommendations for the administration of the Delta Investment Fund created by Section 29778.5 of the Public Resources Code.

(c) For the purposes of assisting the commission in its preparation of the proposal, both of the following actions shall be undertaken:

(1) The Department of Parks and Recreation shall prepare a proposal, for submission to the commission, to expand within the Delta the network of state recreation areas, combining existing and newly designated areas.

The proposal may incorporate appropriate aspects of any existing plans, including the Central Valley Vision Implementation Plan adopted by the Department of Parks and Recreation.

(2) The Department of Food and Agriculture shall prepare a proposal, for submission to the commission, to establish market incentives and infrastructure to protect and enhance the economic and public values of Delta agriculture.

(d) The commission shall submit the proposal developed pursuant to subdivision (a) to the council. The council shall consider the proposal and may include any portion of the proposal in the Delta Plan if the council, in its discretion, determines that the portion of the proposal is feasible and consistent with the objectives of the Delta Plan and the purposes of this division.

85306. The council, in consultation with the Central Valley Flood Protection Board, shall recommend in the Delta Plan priorities for state investments in levee operation, maintenance, and improvements in the Delta, including both levees that are a part of the State Plan of Flood Control and nonproject levees.

85307. (a) The Delta Plan may identify actions to be taken outside of the Delta, if those actions are determined to significantly reduce flood risks in the Delta.

(b) The Delta Plan may include local plans of flood protection.

(c) The council, in consultation with the Department of Transportation may address in the Delta Plan the effects of climate change and sea level rise on the three state highways that cross the Delta.

(d) The council, in consultation with the State Energy Resources Conservation and Development Commission and the Public Utilities Commission, may incorporate into the Delta Plan additional actions to address the needs of Delta energy development, energy storage, and energy distribution.

85309. The department, in consultation with the United States Army Corps of Engineers and the Central Valley Flood Protection Board, shall prepare a proposal to coordinate flood and water supply operations of the State Water Project and the federal Central Valley Project, and submit the proposal to the council for consideration for incorporation into the Delta Plan. In drafting the proposal, the department shall consider all related actions set forth in the Strategic Plan.

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85320. (a) The Bay Delta Conservation Plan (BDCP) shall be considered for inclusion in the Delta Plan in accordance with this chapter....

(c) The department shall consult with the council and the Delta Independent Science Board during the development of the BDCP. The council shall be a responsible agency in the development of the environmental impact report. The Delta Independent Science Board shall review the draft environmental impact report and submit its comments to the council and the Department of Fish and Game.

(d) If the Department of Fish and Game approves the BDCP as a natural community conservation plan pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code, the council shall have at least one public hearing concerning the incorporation of the BDCP into the Delta Plan.

(e) If the Department of Fish and Game approves the BDCP as a natural community conservation plan pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code and determines that the BDCP meets the requirements of this section, and the BDCP has been approved as a habitat conservation plan pursuant to the federal Endangered Species Act (16 U.S.C. Section 1531 et seq.), the council shall incorporate the BDCP into the Delta Plan. The Department of Fish and Game's determination that the BDCP has met the requirements of this section may be appealed to the council.

(f) The department, in coordination with the Department of Fish and Game, or any successor agencies charged with BDCP implementation, shall report to the council on the implementation of the BDCP at least once a year, including the status of monitoring programs and adaptive management.

(g) The council may make recommendations to BDCP implementing agencies regarding the implementation of the BDCP. BDCP implementing agencies shall consult with the council on these recommendations. These recommendations shall not change the terms and conditions of the permits issued by state and federal regulatory agencies.

85350. The council may incorporate other completed plans related to the Delta into the Delta Plan to the extent that the other plans promote the coequal goals.

## Actions to engage agencies

The Council will meet the specific requirements for engaging other agencies and will also seek their contribution to developing and implementing first the Interim Plan and then the Delta Plan. The actions anticipated go beyond the specific requirements of the Delta Reform Act, including the following:

Action	Comment
Initiate contact with agencies, including personal contact and written communications	In progress
Establish agency coordination group required under Water Code Section 85204	Initiate in third quarter 2010; structure to contribute to development of Delta Plan and related environmental documents during 2010 and 2011, to address issues arising in

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	implementation of the Delta Plan thereafter, and in adaptive management processes no later than 2017.
Engage federal agencies	Federal agencies are authorized to participate in California Bay Delta programs under Public Law 108–361 (2004). Relationships established under CALFED before passage of SBX7 1 are being reviewed and adjusted as appropriate.
Establish early consultation processes	Procedures for early consultation appropriate to the Interim Plan as a framework document are included below and in Appendix I. Further development of procedures appropriate for use regarding covered actions (Water Code Section 85225.5) will occur in the Delta Plan.
Develop Delta Plan consistent with the Coastal Zone Management Act (CZMA) (or equivalent), Clean Water Act, and Reclamation Act (Water Code Section 85082)	Anticipated in development of the Delta Plan; requires discussion with federal agencies and also state agencies with CZMA designations.

## Policies and Procedures

Among the core, repetitive responsibilities of the Council, early attention will be given to its responsibilities related to reviews of proposed actions and plans. As discussed in Section II of this Interim Plan, the Council will be making recommendations on several issues before adoption of the Delta Plan. High priority will be given to establishing systems and processes that establish effective relationships with state and local agencies whose actions and plans are relevant to the roles of the Council. The Council will adopt procedures regarding receipt and processing of information and requests, including forms for use in submitting materials, expected to be similar to those currently used by state, regional, and local governments. Appendix I includes five types of procedures, some of which are under development:

1. The adopted procedures on Council meetings
2. A statement of procedures for bringing actions before the Council
3. Administrative procedures governing appeals (administrative draft)
4. Statutory provisions requiring other consistency reviews (administrative draft)
5. Administrative procedures governing other forms of review or evaluation (administrative draft)

## Work Plan

A formal work plan provides the structure by which the Council uses its resources most effectively and manages relationships with others to achieve its goals. A work plan is especially important for a newly created agency requiring selection among possible activities and focus on achieving a defined set of

activities. The work plan can be brief or extensive but serves to focus energy, communicate intent to others, and provide accountability.<sup>8</sup> A draft work plan template is included as Appendix III.

## Decision Processes

As a newly created body, the Council was required to adopt its own rules under the enabling legislation. See Appendix 1.

In addition, Council decisions will adhere to these principles and procedures:

1. The Council will hear “conceptual” proposals as informational items at its discretion but will not act on conceptual proposals nor will the Council issue “in concept” approvals
2. Robust procedures to ensure transparency and adequate opportunities for interested parties and the public to participate in decision making, including availability of information related to a decision well before the meeting at which it is considered
3. Use of the best available science. The Council defines best available science as follows, consistent with use in natural resources policy making:<sup>9</sup>

As stated in Section IV, “Best Available Science” must be consistent with the scientific process. Science consistent with the scientific process shall include the following elements: clearly stated objectives, a conceptual model, a good experimental design with standardized methods for data collection, statistical rigor and sound logic for analysis and interpretation, and clear documentation of methods, results, and conclusions. The best science is transparent; it clearly outlines assumptions and limitations. The best science is also reputable; it has undergone peer review conducted by active experts in the applicable field(s) of study. Scientific peer review addresses the validity of the methods used, the adequacy of the methods and study design in addressing study objectives, the adequacy of the interpretation of results, whether the conclusions are supported by the results, and whether the findings advance scientific knowledge (Sullivan et al. 2006).

The Council will seek the “best available science” to inform its decisions regarding substantial policies or projects. The term science is understood to include verifiable understanding of natural, physical, and human systems; data; and modeling from any source deemed reliable. Engineering expertise is included where relevant. Data from any source deemed reliable, including organized research, government agencies, commercial sources, or systematic community knowledge may be included as relevant to a decision. The council anticipates developing more detailed procedures on the use of best available science, possibly including categories of scientific information, such as those provided in statute in the State of Washington.<sup>10</sup>

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<sup>8</sup> The San Francisco Bay Conservation and Development Commission provided monthly updates on its strategic plan as a form of a work plan. [http://www.bcdc.ca.gov/reports/strategic\\_status\\_rpt.pdf](http://www.bcdc.ca.gov/reports/strategic_status_rpt.pdf). For a highly detailed work plan that focuses on transportation projects, see that developed annually by the Southern California Association of Governments, which includes several hundred pages of text and an associated budget. <http://www.scaq.ca.gov/owp/index.htm>.

<sup>9</sup> For examples of discussions of best available science see: P.J. Sullivan, et al. 2006. Defining and Implementing Best Available Science for Fisheries and Environmental Science, Policy, and Management. *Fisheries*. vol 31, no 9. <http://www.fws.gov/wafwo/fisheries/publications/fisheries3109.pdf>; Committee on Sustainable Water and Environmental Management in the California Bay-Delta, National Research Council. 2010. *A Scientific Assessment of Alternatives for Reducing Water Management Effects of Threatened and Endangered Species on California's Bay Delta*. Pages 14, 27-32. [http://www.nap.edu/catalog.php?record\\_id=12881](http://www.nap.edu/catalog.php?record_id=12881) and F. B. Van Cleve, et al., 2004. Application of the “Best Available Science” in Ecosystem Restoration: Lessons Learned from Large-Scale Restoration Efforts in the USA. Prepared in support of the Puget Sound Nearshore Partnership. [http://www.pugetsoundnearshore.org/technical\\_papers/lessonslearned.pdf](http://www.pugetsoundnearshore.org/technical_papers/lessonslearned.pdf).

<sup>10</sup> <http://apps.leg.wa.gov/WAC/default.aspx?cite=365-195-905>



The Council will draw upon scientists and experts in determining the relevance, value, and reliability of the best available science and in organizing that information for use in its decisions, relying heavily on the Delta Science Program and the Delta Independent Science Board. The Council has the final responsibility in determining the best available science, including a choice among competing interpretations of available science.

Best available science is specific to a decision context and the best available science will be defined by the specific decision to be made and the time frame available for that decision. There is no expectation of delaying decisions to await improved science. Action can be taken on imperfect science if it is the best available.

Best available science used by the Council shall be developed and presented in a transparent manner including clear statements of assumptions, methods used, and conclusions. Sources of data used shall be cited and analytic tools used identified.

Best available science changes over time and the Council may revisit any prior decision at its discretion upon making a judgment of material change in the best available science relevant to that decision.

4. Consideration of any project or decision against all eight policy objectives in accordance with basic legal authorities as summarized by Appendix IV.
5. Consideration of technical and legal feasibility, consistency or conflicts with other programs, and ability to implement in timely manner for a specified schedule.
6. Use of seven framework tools as a basis for analysis and development of performance measures.
7. Commitment to make progress on all eight policy objectives over roughly similar time frames, with roughly equivalent certainty regarding effectiveness.
8. The Council will issue specific written findings and decisions as required by law or otherwise within its discretion

## **Basis for Identifying Actions**

In adopting this Interim Plan, the Council also clearly conveys its commitment to meeting its obligations under the Sacramento-San Joaquin Delta Reform Act of 2009, including:

1. All ecosystem restoration, water conveyance, and flood management proposals advanced in the state and local public policy processes of the past 5 years (e.g., the Ecosystem Restoration Program of the DFG, the BDCP, the Suisun Marsh Plan, or FloodSAFE) will be considered in developing the Delta Plan. To satisfy Water Code Section 85300, the Council will “...consider each of the strategies and actions set forth in the [Delta Vision] Strategic Plan and may include any of those strategies or actions in the Delta Plan.” The compilation of activities in Appendices IV and V is a start at identifying activities which may require consistency or coordination with the Delta Plan.

Identification of an action for possible inclusion in the Delta Plan does not require that it be “stopped” until the Delta Plan is completed. It does mean that the action should be considered within the legal framework of SBX7 1.

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The Delta Plan will include covered actions. SBX7 1 (Water Code Section 85057.5) defines covered actions a plan, program, or project that meets all of the following conditions:

1. Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh.
2. Will be carried out, approved, or funded by the state or a local public agency.
3. Is covered by one or more provisions of the Delta Plan.
4. Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta.

SBX7 1 includes specific exclusions from the Delta Plan (listed in Water Code Section 85057.5(b)). Some exclusions blanket a class of continuing actions (e.g., routine maintenance and operation of any facility...owned and operated by a local agency, Water Code Section 85057.5(b)(5)). Other exclusions are defined as reaching a particular point in time, including Water Code Section 85057.5(b)(6) and (7):

(6) Any plan, program, project, or activity that occurs, in whole or in part, in the Delta, if both of the following conditions are met:

- (A) The plan, program, project, or activity is undertaken by a local public agency that is located, in whole or in part, in the Delta.
- (B) Either a notice of determination is filed, pursuant to Section 21152 of the Public Resources Code, for the plan, program, project, or activity by, or the plan, program, project, or activity is fully permitted by, September 30, 2009.

(7) (A) Any project within the secondary zone, as defined pursuant to Section 29731 of Public Resources Code as of January 1, 2009, for which a notice of approval or determination pursuant to Section 21152 of the Public Resources Code has been filed before the date on which the Delta Plan becomes effective.

(B) Any project for which a notice of approval or determination is filed on or after the date on which the final Bay Delta Conservation Plan becomes effective, and before the date on which the Delta Plan becomes effective, is not a covered action but shall be consistent with the Bay Delta Conservation Plan.

(C) Subparagraphs (A) and (B) do not apply to either of the following:

- (i) Any project that is within a Restoration Opportunity Area as shown in Figure 3.1 of Chapter 3: Draft Conservation Strategy of the Bay Delta Conservation Plan, August 3, 2009, or as shown in a final Bay Delta Conservation Plan.
- (ii) Any project that is within the alignment of a conveyance facility as shown in Figures 1 to 5, inclusive, of the Final Draft Initial Assessment of Dual Delta Water Conveyance Report, April 23, 2008, and in future revisions of this document by the department.
- (c) Nothing in the application of this section shall be interpreted to authorize the abrogation of any vested right whether created by statute or by common law.

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2 The Act also includes “savings” clauses asserting that certain specified statutes are not changed by any  
3 provision of the Act (listed in Water Code Sections 85031 and 85322).

4 If an agency determines a proposed action satisfies one of the exclusion or savings clause provisions, it  
5 should proceed with the action, including any relevant sections of SBX7 1 among the state laws with  
6 which to comply.

7 Any state or local agency contemplating approving or undertaking a project that is potentially or clearly  
8 a covered action should contact the Council staff for an early consultation. These consultations will have  
9 the goal of understanding the congruence of the proposed action with the Act, using this Interim Plan as  
10 the framework for any Council recommendations. Those recommendations will not be binding but will  
11 be of value to agencies in clarifying whether or not the Act does potentially apply to a proposed activity  
12 and in identifying where such activities appear to comport with provisions of SBX7 1 and where they  
13 may encounter potential inconsistencies. The Council's recommendations will not constitute a  
14 determination of consistency with, or an exemption from, the yet-to-be adopted Delta Plan.

15 The Council seeks strong working relationships with agencies and stakeholders in developing an  
16 effective Delta Plan that can also serve as many of their missions and goals as is possible within SBX7 1.  
17 Important components of those effective working relationships are procedures that ensure  
18 transparency and robust procedures for early consultation that are used consistently.

19 Finally, implementation requires full consideration of public input. Opportunities will be provided for the  
20 public to engage in the development and implementation of the Interim Plan.



## **IV. Analytical Tools for Council Action under the Sacramento-San Joaquin Delta Reform Act of 2009**

Section III outlined processes the Council will use to provide recommendations on early actions, projects, and programs, and manage its work flow to meet its responsibilities. The goal of this section is to provide a framework for organizing information as a basis for Council action in a wide range of activities under the Interim Plan, some unknowable at this time. The organization proposed will also facilitate communication of measurable progress in meeting the requirements of SBX7 1. The next section outlines procedural steps in Council decision making.

The framework relies on seven tools with which to organize and assess critical information:

1. Best available science
2. Delta water flows
3. Delta ecosystem restoration plan
4. Map and table of current levee system integrity
5. Map of planned Delta land uses
6. Finance plan
7. Indicators of progress in meeting California's future water supply needs on a regional basis

These seven tools focus on core responsibilities of the Council to achieve the coequal goals and organize much of what will be required for decision making. They do not include all elements required for Council action. The tools miss some dimensions of economic sustainability in the Delta and of progress in implementing improved governance, for example. An effective graphic for some tools can be used to communicate effectively with those relevant to the work of the Council, from agencies to a broad public. While the graphics are presented here in hard copy, the intent is for these to be digital maps that are updated on a regular basis and that provide links to related information and/or sources.

None of the tools will be fully developed by August 27, 2010, when the Interim Plan is scheduled to be adopted by the Council. However, even in incomplete form, they will inform Council work under the Interim Plan and may be amended over time.

### **Best Available Science**

Use of "best available science" or "best available scientific information" is required in the Act and the two terms are treated equivalently in this Interim Plan. In this section, the use of "best available science" as a tool is discussed; procedures for the use of best available science in decision making of the council are considered in Section V.

As stated in Sullivan et al. 2006, "Best Available Science" must be consistent with the scientific process. Science consistent with the scientific process shall include the following elements: clearly stated objectives, a conceptual model, a good experimental design with standardized methods for data collection, statistical rigor and sound logic for analysis and interpretation, and clear documentation of methods, results, and conclusions. The best science is transparent; it clearly outlines assumptions and limitations. The best science is also reputable; it has undergone peer review conducted by active experts

1 in the applicable field(s) of study. Scientific peer review addresses the validity of the methods used, the  
2 adequacy of the methods and study design in addressing study objectives, the adequacy of the  
3 interpretation of results, whether the conclusions are supported by the results, and whether the  
4 findings advance scientific knowledge (Sullivan et al. 2006)

5 The Delta Reform Act creates includes provisions for a Delta Independent Science Board, a lead scientist  
6 and a Delta Science Program (Water Code section 85280). The council appoints members of the Delta  
7 Independent Science Board and, in consultation with that board, the lead scientist for the Delta Science  
8 Program.

9 The work of these bodies becomes a foundation upon which not only the council, but other agencies,  
10 businesses and individuals understand the Delta and inform discussions of strategies and actions  
11 intended to achieve various policy goals. This is succinctly stated in the Delta Reform Act:

12 85280(a)(3) The Delta Independent Science Board shall provide oversight of the  
13 scientific research, monitoring, and assessment programs that support adaptive  
14 management of the Delta through periodic reviews of each of those programs that shall  
15 be scheduled to ensure that all Delta scientific research, monitoring, and assessment  
16 programs are reviewed at least once every four years.

17 (4) The Delta Independent Science Board shall submit to the council a report on the  
18 results of each review, including recommendations for any changes in the  
19 programs reviewed by the board....

20 (b) (4) The mission of the Delta Science Program shall be to provide the best possible  
21 unbiased scientific information to inform water and environmental  
22 decisionmaking in the Delta. That mission shall be carried out through funding  
23 research, synthesizing and communicating scientific information to  
24 policymakers and decisionmakers, promoting independent scientific peer  
25 review, and coordinating with Delta agencies to promote science-based  
26 adaptive management. The Delta Science Program shall assist with development  
27 and periodic updates of the Delta Plan's adaptive management program.

28 Over time, the body of scientific understanding of the Delta and of the effects of various policies will  
29 have powerful effects in shaping policy making options.

## 30 **Delta Water Flow**

31 The Delta flow criteria developed by the SWRCB under Water Code Section 85086 with contributions of  
32 the DFG under Section 85084.5 will be one of the early considerations of Delta water flow. Over time,  
33 additional information will be added, including whatever results from the BDCP, plus the additional  
34 instream flow studies required by Section 85087. Water quality requirements must be incorporated by  
35 the SWRCB under Section 85086 and can be updated as those regulations change. Water flows must  
36 include plans to "... promote options for new and improved infrastructure relating to the water  
37 conveyance in the Delta, storage systems, and for the operation of both to achieve the coequal goals"  
38 (Section 85304).

## Delta Ecosystem Restoration Plan

Actions taken to restore the Delta ecosystem are expected to include at least changes in water flows, water quality, and land forms and uses (Sections 85023, 85084.5, 85302(c)(e)). The CALFED Ecosystem Restoration Program provides tools and processes for evaluating and guiding decision making about restoration actions under the Interim Plan. These include the program's Strategic Plan and the Delta Regional Ecosystem Restoration Implementation Plan conceptual models. Summary information on progress on ecosystem restoration will not be easily captured in maps, so other graphic formats will be required. One option is to organize reports in bar chart formats or line graph by performance measures. The *Delta Vision Strategic Plan* includes approximately 40 ecosystem performance measures,<sup>11</sup> more than can be easily understood in public policy making processes, but they are organized around five policy strategies. To the extent possible, these (or other) measures of ecosystem function can be combined into summary indices, maintaining the detailed information for use when needed.

## Map and Table of Current Levee System Integrity

All uses of the Delta require a certain level of protection against river flooding, sea level rise, and earthquakes. The Interim Plan must ensure progress toward congruence between the uses and resources at risk and the levees that provide protection. Existing levees have been developed over decades, initially without design standards and then to a succession of standards developed by federal and state agencies. Local reclamation districts, local engineers, and local land owners responsible for much maintenance of levees are interested participants in the evolution of levee standards. Pending the development of more detailed information on levee conditions and policies required under Sections 85306, this Interim Plan uses the levee classification system developed during development of the *Delta Vision Strategic Plan*, and now used by DWR and others. This classification table, Table 4-1, organizes levee standards from lowest to highest levels of protection offered.

Table 4-1 shows all nine classes of levees currently used in discussions of Delta levee policies. Levee improvement activities are now particularly dynamic, with evolving thought (especially by DWR) toward implementing approaches as mandated by recent legislation, recognition of special problems (such as seismic vulnerability), recent program changes (such as FEMA's levee recertification requirement) and the availability of additional resources from Propositions 84 and 1E. Specifically, the DWR FloodSAFE and the Delta Levees Program are developing additional levee classifications to address the following two classifications shown in Table 4-1:

- **Legacy Towns.** As a result of the emphasis on maintaining the unique culture of the Delta and also because several communities in the Delta may not requalify for FEMA certification, and because of increased awareness of Delta seismic vulnerability, DWR has expressed specific interest in addressing protection for small Delta communities (or Legacy Towns). The specific approach has not yet been established, but would be likely to include increased freeboard (3 feet) for protective PL 84-99 Delta Specific or non-urban project levees and might include special levee configurations such as ring levees. Additional design features are being considered to provide life-safety protection in the event of major levee failures from earthquake or other causes.
- **Urban Project Levees.** With the passage of Senate Bill 5 mandating 200-year flood protection for urban areas and the availability of resources through bond funding, FloodSAFE has initiated an

<sup>11</sup> See *Delta Vision Strategic Plan* performance measures for Goal 3, "Restore the Delta ecosystem as the heart of a healthy ecosystem," pages 67-91.  
[http://deltavision.ca.gov/StrategicPlanningProcess/StaffDraft/Delta\\_Vision\\_Strategic\\_Plan\\_standard\\_resolution.pdf](http://deltavision.ca.gov/StrategicPlanningProcess/StaffDraft/Delta_Vision_Strategic_Plan_standard_resolution.pdf)

aggressive program of levee improvement focused on State-Federal Flood Control Project levees that protect urban and urbanizing areas. An urban area is defined as a developed area in which there are 10,000 residents or more. An urbanizing area is a developed area or an area outside a developed area ... that is planned or anticipated to have 10,000 residents or more within the next 10 years. DWR/FloodSAFE (2009) has issued “Proposed Interim Levee Design Criteria for Urban and Urbanizing Area State-Federal Project Levees.” These criteria not only require 200-year flood protection, they also require consideration of seismic stability under a 200-year earthquake. Specifically:

“For levees subject to seasonal high water that are planned for repair or improvement and that are also found to be vulnerable to seismic damage, the repair or improvement alternative that is most resistant to seismic damage and/or easily and economically repaired following an earthquake should be selected over other cost-comparable alternatives (e.g., a berm is preferable to a cost-comparable slurry wall). If seismic damage is expected after all 200-year flood improvements are in place, a post-earthquake remediation plan will be required for quickly restoring the levee system’s grade and dimensions sufficient for protection against the 10-year flood, with 3 feet of freeboard, or higher as needed for 10-year wave run up. To the extent that seismic damage to the levee system would be so significant and widespread that it would be infeasible to restore 10-year protection within a few months, seismic strengthening may be required for 200-year certification. Levees subject to frequent high water, such as many levees in the Delta, would need seismic stability sufficient to maintain a 10-year level of flood protection during and immediately after the earthquake.”

**Based on this approach, two levee classifications have been identified – one for repairable levees (to be partially repaired after seismic damage before the next flood season and the other for robust levees, designed to survive the earthquake retaining an acceptable portion of their flood protection capability.** Incorporating seismic risks into levee designs is important in the Delta as recognized in interim design criteria being developed by DWR. This is a challenging task as there is scant experience with the performance of levees designed to these standards.

Levee classifications are used to judge whether existing or contemplated land uses are appropriately protected and Table 4-1 illustrates such relationships. Estimates of current levels of protection for each actual area of the Delta must be developed based on information provided by the Delta Risk Management Strategy (DRMS), or whatever else is the best information now available from other sources, such as DWR, USACE, and local districts.



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1 **Table 4-1**  
2 **Delta Levees Classification and Suitability**

Delta Levee Suitability						Adopted or Proposed Design Criteria
Delta Levee Classification	Description	Habitat	Agricultural	Infrastructure	Populated	
Class 1	No Design Requirement <sup>1</sup>	√	•	Not suitable (N/S)	(N/S)	Typical height is less than 8 feet. Crest width is 12 feet or less. Exterior and interior slopes, assume 2H:1V. No seismic capability. Freeboard varies but levee is usually overtopped for water level with 1% annual frequency (i.e., 100-year average return period or 100-year flood). Expect frequent failure.
Class 2	HMP <sup>2</sup>	√	*	•	(N/S)	16 foot crest width. All-weather patrol road. Steep exterior slope (1.5H:1V). Steep interior slope (2H:1V). Marginal static stability (FS = 1.1+/-). No seismic capability. Freeboard = 1.0 foot (for water level with 1% annual frequency or 100-year flood).
Class 3	PL 84-99 (DS) <sup>3</sup>	N/A	√	*	(N/S), • <sup>4</sup>	16 foot crest width. All-weather patrol road. Exterior slope (2H:1V). Interior slope (2H:1V to 5H:1V), based on levee height and depth of peat. Static stability (FS = 1.25). Levee toe drain 30 feet landward. Essentially no seismic capability. Freeboard = 1.5 feet (for 1% annual frequency or 100-year flood).
Class 4	PL 84-99 (Non-urban, Project Levee)	N/A	√	*	(N/S), • <sup>4</sup>	16 foot crest width. All-weather patrol road. Exterior slope (2H:1V). Interior slope (generally 3H:1V or less steep), based on USACE original site-specific design. Static stability (FS = 1.4+). Levee toe drain or seepage control berm. Very little seismic capability. Freeboard = 1.5 feet (for 1% annual frequency or 100-year flood), possibly with additional freeboard for waves.

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Delta Levee Suitability						Adopted or Proposed Design Criteria
Delta Levee Classification	Description	Habitat	Agricultural	Infrastructure	Populated	
Class 5 (under development)	Legacy Town	N/A	N/A			Not yet established. Major issues need to be resolved.
Class 6	FEMA - 100 Yr <sup>5</sup>	N/A	N/A	*	*	16 foot crest width. All-weather patrol road. Toe drain. Exterior Slope (2H:1V). Interior Slope (varies, stability/seepage, 3H:1V to 5H:1V). Static stability (FS = 1.4 to 1.9). Seepage exit gradient ≤ 0.5. (FS and Seepage per USACE documents). Very little seismic capability. Freeboard = 3.0+ feet (for 1% annual frequency or 100-year flood).
Class 7 (under development, SB 5 requires; in use for early implementation funding)	DWR - 200Yr Urban (Seismic Repairable) <sup>6</sup>	N/A	N/A	√	√	Designed per DWR "Proposed Interim Levee Design Criteria for Urban and Urbanizing Area State-Federal Project Levees" (3rd draft, May 15, 2009). Freeboard approx 3.0 feet (for 0.5% annual frequency or 200-year flood). Seismic design for 200-year earthquake; if hydraulically loaded only seasonally, must be repairable for 10% annual flood (i.e., 10-year flood) within a few months.
Class 8 (under development, SB 5 requires; in use for early implementation funding)	DWR - 200 Yr Urban (Seismic Robust) <sup>6</sup>	N/A	N/A	√	√	Designed per DWR "Proposed Interim Levee Design Criteria for Urban and Urbanizing Area State-Federal Project Levees" (3rd draft, May 15, 2009). Freeboard approx 3.0 feet (for 0.5% annual frequency or 200-year flood). Seismic design for 200-year earthquake; if subject to frequent high water (as in Delta), must be survive earthquake with flood protection for 10% annual probability (10-year) high water level.

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Delta Levee Suitability						Adopted or Proposed Design Criteria
Delta Levee Classification	Description	Habitat	Agricultural	Infrastructure	Populated	
Class 9	Seismic Super Levee	N/A	N/A	√	√	Wide crest (as much as 200 feet). All weather road(s) on crest. Other design factors similar to or stronger than seismically robust above.

Notes:

1. Class 1 levees are expected to allow periodic flooding. They may serve the needs of habitat or some agriculture (e.g., pasture). There is no specific design criterion.
2. HMP indicates "Hazard Mitigation Plan" representing the minimum levee design requirement for an island to be eligible for Federal Emergency Management Agency disaster assistance.
3. PL84-99 (DS) indicates the USACE's "Delta Specific" design requirements issued in 1987 for eligibility in the PL 84-99 Rehabilitation and Inspection Program (RIP).
4. Class 3 and 4 levees are unsuitable for a DWR-defined urban or urbanizing areas (population of 10,000 or more or expected to have 10,000 or more within the next 10 years). They have substantial residual risk of flooding and are of questionable suitability, even for lower levels of population.
5. FEMA - 100 Yr indicates the Federal Emergency Management Agency levee design requirement for excluding the protected area from the Flood Insurance Rate Map determination of the Special Flood Hazard Area (100-year floodplain).
6. For Class 7 & 8 levees DWR's draft interim 200-year design criteria for urban and urbanizing area project levees has been developed for use in implementing FloodSAFE projects, responsive to the requirements of Senate Bill 5 for 200-year protection.
7. ● indicates substantial residual risk of flooding, partly due to the multiple hazards unique to the Delta and considering the consequences of flooding to the indicated land use. Suitability is questionable and, at best, marginal.
8. \* indicates a significant residual risk of flooding and a basis for questioning suitability.
9. √ indicates "suitable," but even these levees have a residual risk of flooding.

Sources: (The list will be expanded with requests to agencies and interested parties)

1. Sacramento-San Joaquin Delta Atlas, California Department of Water Resources, Reprinted, July, 1975.  
<http://baydeltaoffice.water.ca.gov/DeltaAtlas/index.cfm>
2. Delta Risk Management Strategy Phase I, California Department of Water Resources, URS Corporation, Jack R. Benjamin Associates, Inc., February, 2009. [http://www.water.ca.gov/floodmgmt/dsmo/sab/drmsp/phase1\\_information.cfm](http://www.water.ca.gov/floodmgmt/dsmo/sab/drmsp/phase1_information.cfm)
3. Delta Risk Management Strategy Phase I, DRAFT Levee Optimization Spreadsheets (unpublished) 2008. (Information extracted and summarized from Phase 1 Technical Memoranda).
4. USGS 7.5 minute quadrangle 1:24000-scale topographic maps, various dates.
5. Google Earth (R) imagery and mapping, various dates.



## Maps of Delta Land Uses

One of the primary goals of SBX7 1 is to achieve more effective integration of land use policies in the Delta, reflected in the very first section of the act, Public Resources Code Section 29702, every clause of which affects land uses in the Delta and all of which are further developed in other sections of the Act:

Section 29702. The Legislature further finds and declares that the basic goals of the state for the Delta are the following:

- (a) Achieve the two coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.
- (b) Protect, maintain, and, where possible, enhance and restore the overall quality of the Delta environment, including, but not limited to, agriculture, wildlife habitat, and recreational activities.
- (c) Ensure orderly, balanced conservation and development of Delta land resources.
- (d) Improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety.

Many plans and projects can affect the land forms and land uses in the Delta, including work on flood management policies affecting levees; flood ways and allowable land uses; patterns of land use allowed under the policies of the DPC and local governments; ecosystem restoration projects, including those in which the Delta Conservancy is a party; improved water conveyance; and other infrastructure investments. Among the existing plans shaping land uses in the Delta are county and city general plans and zoning, county Habitat Conservation Plans, and the DPC Land Use and Resource Management Plan, among others.

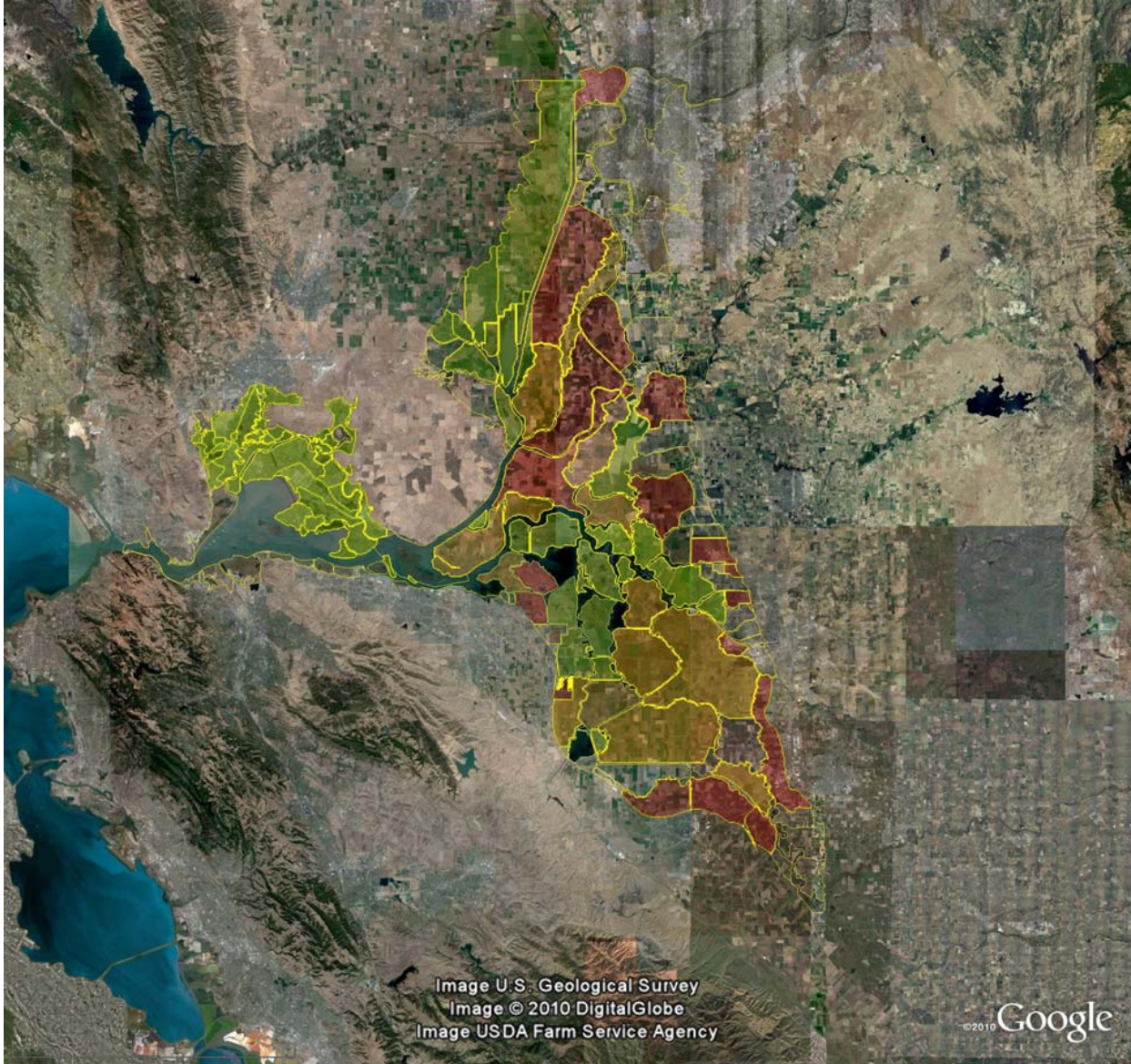
The maps developed for use here must integrate the various policies affecting land uses in the Delta in one or more intelligible graphics showing land uses that will result from those policies. One possible way to do so is as one or more overlays on existing land uses. No existing Delta map has yet been identified to serve as a starting point for this graphic.

The map in Figure 4-1 that follows summarizes available information on existing land uses, categorized in four groups reflecting of increasing intensity/value of uses, applied at the level of islands.



**Figure 4-1**

**Example of Current Simplified Land Uses of the Delta and Suisun Marsh (PRELIMINARY DRAFT)**



<u>Symbol</u>	<u>Land Use Acronym</u>	<u>Uses</u>
<b>AC</b>	Ag/Cons	Eco, Recreation, Extensive Ag.
<b>IA</b>	Intnsv Ag/Infra	Intensive Ag, vineyards, orchards, flood-tolerant infrastructure, less than 30 residences
<b>ARI</b>	Ag/Res/Infra/Mixed	30 to 100 residences, &/or St. Hwy, RR, Gas
<b>POP</b>	Populated/Res/Coml	More than 100 residences, commercial, industrial,
<b>Not marked</b>	Blank	Further information needed (RD boundaries, Intensive Ag., recent changes)

Notes: Gas fields presumed to withstand temp. inundation; not included.

Island's role in water quality protection, salinity control not included; see DWR/DRMS.

Sources: (The list will be expanded with requests to agencies and interested parties)

1. Sacramento-San Joaquin Delta Atlas, California Department of Water Resources, Reprinted, July, 1975.  
<http://baydeltaoffice.water.ca.gov/DeltaAtlas/index.cfm>
2. Delta Risk Management Strategy Phase I, California Department of Water Resources, URS Corporation, Jack R. Benjamin Associates, Inc., February, 2009.  
[http://www.water.ca.gov/floodmgmt/dsmo/sab/drmsp/phase1\\_information.cfm](http://www.water.ca.gov/floodmgmt/dsmo/sab/drmsp/phase1_information.cfm)
3. Delta Risk Management Strategy Phase I, DRAFT Levee Optimization Spreadsheets (unpublished) 2008. (Information extracted and summarized from Phase 1 Technical Memoranda).
4. USGS 7.5 minute quadrangle 1:24000-scale topographic maps, various dates.
5. Google Earth (R) imagery and mapping, various dates.  
<http://www.yoloconservationplan.org/maps-and-documents.html>  
[http://baydeltaconservationplan.com/NewsLtrBackgroundDoc/Cosumnes\\_Mokelumne\\_ROA.pdf](http://baydeltaconservationplan.com/NewsLtrBackgroundDoc/Cosumnes_Mokelumne_ROA.pdf)  
<http://www.msa2.saccounty.net/planning/Documents/SSCHP/WetlandHabitatCoverTypesMap.pdf>

As another approach, the seven maps of subareas of the San Francisco Bay shoreline within its jurisdiction developed for use by the San Francisco Bay Conservation and Development Commission combine information about current land uses, BCDC policies, and private and public projects under development.<sup>12</sup> Land use maps will be evaluated in relation to the map and table of Levee System Integrity to ensure progress toward congruence between land uses, risks, and levels of protection.

## Finance Plan

SBX7 1 does not address financing operations of the Council, the Delta Conservancy, or the DPC, nor does it provide financing for actions recommended by these bodies. The issue of adequate financing must be addressed. The *Delta Vision Strategic Plan* includes one strategy (7.3) and three related actions (7.3.1, 7.3.2, and 7.3.3)<sup>13</sup> that must be considered in developing the Delta Plan.

The Interim Plan can make progress on two important beginning points in a finance plan: (1) beginning to develop accurate and complete information on current finances and (2) initiating discussion of long-term financing to support activities under the Act.

No accurate and complete accounting of the finances of public activities in the Delta exists and the creation of the first compilation of these data should be given high priority. Table 4-2 begins this effort,

<sup>12</sup> See Part V and associated maps and text: [http://www.bcdc.ca.gov/laws\\_plans/plans/sfbay\\_plan.shtml](http://www.bcdc.ca.gov/laws_plans/plans/sfbay_plan.shtml)

<sup>13</sup> [http://deltavision.ca.gov/StrategicPlanningProcess/StaffDraft/Delta\\_Vision\\_Strategic\\_Plan\\_standard\\_resolution.pdf](http://deltavision.ca.gov/StrategicPlanningProcess/StaffDraft/Delta_Vision_Strategic_Plan_standard_resolution.pdf). Pages 133-37.



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drawing initially on a 2005 report of the Department of Finance Office of State Audits and Evaluations.<sup>14</sup>  
Additional data are being assembled to complete this table.

As with measures of ecosystem restoration, the useful graphic on existing finances here is unlikely to take the form of a map. Instead, some combination of bar charts and/or stacked trend lines that capture current financial flows by source and purpose and provide a good foundation for decisions about future financial investments is likely to be more useful.

A financing plan will be developed for consideration during development of the Delta Plan. The financing plan will contain options for support of the Delta Stewardship Council and the Science Program, the Delta Conservancy, the Delta Protection Commission, program expenditures, and project funding.

To initiate the analysis, three alternative scenarios will be developed:

1. Existing financing sources (assuming no replacement of existing bond financing)
2. Enhanced financing reliant solely on general fund and other broad-based funding sources, such as additional general obligation bonds
3. Enhanced financing with significant portions of the total funds (including revenue bonds) coming from users. Such funding may be based on stressors on the ecosystem, water supply, and other facilities, and will consider those who benefit directly.

**Table 4-2**  
**Finances of Activities in the Delta (Under Development)**

Expenditures in the Delta	Annual averages (\$)				
	Prior to CALFED ROD (4 years)	Fiscal Years '00-'01 through '03-'04 (First 4 years of ROD)	Fiscal Years '04-'05 through '08-'09	Budgeted Fiscal Year '10-'11	Projected
<b>Through CALFED</b>					
<b>Sources of financing</b>					
State general fund (and other state funds)		56,770,245	81,662,090	13,405,835	13,710,835
State bonds		208,776,375	883,288,123	833,679,977	173,422,539
Water users/local funding		308,361,578	445,898,000 <sup>1,2</sup>	0 <sup>3</sup>	0
Federal government		60,613,750	427,035,719	81,040,221	135,509,000
<b>Major uses of funds</b>					
Water related		223,503,066	1,157,659,105	382,506,283	172,965,131
Ecosystem related		213,448,464	439,168,889	116,739,448	175,271,657
Levees		19,413,150	197,920,384	492,062,101	22,719,000
Oversight/coordination		7,080,189	42,919,986	10,099,000	13,823,000
Science		10,601,544	135,832,343	33,165,869	29,021,530

<sup>14</sup> [http://www.dof.ca.gov/osae/audit\\_reports/documents/CBDA\\_Fiscal-Review\\_Final.pdf](http://www.dof.ca.gov/osae/audit_reports/documents/CBDA_Fiscal-Review_Final.pdf)

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Uncategorized		26,379,850	11,497,720	11,214,000	23,214,000
<b>TOTAL, Through CALFED</b>	112,065,242	632,021,948	1,984,998,426	1,045,786,701	437,014,319
<b>Outside CALFED</b>					
CALFED type programs					
Infrastructure, not water					
Other					
<p>Sources:</p> <p>Columns 1-2: California Department of Finance. A Fiscal Review of the CALFED Bay-Delta Program: Summary of Expenditures as of September 30, 2004.  <a href="http://www.dof.ca.gov/osae/audit_reports/documents/CBDA_Fiscal-Review_Final.pdf">http://www.dof.ca.gov/osae/audit_reports/documents/CBDA_Fiscal-Review_Final.pdf</a>;            Columns 3-5: Provided by Council staff from CALFED Project Performance Information System, July 9, 2010.</p> <p>Notes:</p> <p>1. The \$445,898,000 figure representing Water Users/Local Funding under the 2004-05 through 2008-09 column represents only the 2004-05 fiscal year.</p> <p>2. There is no systematic local funding data in the system post 2004-05. There is additional local funding reported in the 2006 and 2007 annual reports for the Water Use Efficiency Program Element: 2005-06 fiscal year reported \$167,100,000 local funding; 2006-07 fiscal year reported \$146,000,000 local funding.</p> <p>3. The \$0 dollar amounts representing Water Users/Local Funding for the 2009-10 and 2010-11 fiscal years is due to the following: (a) No local funding data collected during these timeframes, (b) The SWP funding amounts are represented in the State Water Project funding source and the CVPIA funding amounts are represented in the federal government funding source.</p>					

## Indicators of Progress in Meeting California's Future Water Supply Needs on a Regional Basis

This tool is intended to summarize progress in satisfying Water Code Section 85021, which states: "The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts." This will require information about the regional efforts listed and the graphic on statewide diversions developed for the *Delta Vision Strategic Plan* could provide a conceptual starting point for an effective graphic that would have to also incorporate information about regional progress toward self-sufficiency. That graphic is included as a possible starting point for this effort.

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# Acronyms and Abbreviations

1	Act	SBX7 1, enacted in November 2009. See below.
2		
3	AWMC	Agricultural Water Management Council
4	BDCP	Bay-Delta Conservation Plan
5	BTH	California Business, Transportation, and Housing Agency
6	CCWD	Contra Costa Water District
7	Central Valley Regional Board	Central Valley Regional Water Quality Control Board
8	CEQA	California Environmental Quality Act
9	USACE	U.S. Army Corps of Engineers
10	Council	Delta Stewardship Council
11	Conservancy	Delta Conservancy
12	CVP	Central Valley Project
13	CZMA	Coastal Zone Management Act
14	D-1641	Decision 1641
15	Delta	Sacramento-San Joaquin River Delta and Suisun Marsh (Water code
16		section 85058)
17	Delta Reform Act	Sacramento-San Joaquin Delta Reform Act of 2009, Division 35 of the
18		Water Code (sections 85000 through 85350)
19	Delta watershed	Sacramento River hydrologic region and the San Joaquin River
20		hydrologic region as described in DWR's Bulletin No. 160-05 (Water
21		code section 85060)
22	DFG	California Department of Fish and Game
23	DOD	U. S. Department of Defense
24	DPC	Delta Protection Commission
25	DRMS	Delta Risk Management Strategy
26	DWR	California Department of Water Resources
27	EIR	Environmental Impact Report
28	EIS	Environmental Impact Statement
29	ERP	Ecosystem Restoration Program
30	ESA	Endangered Species Act
31	FEMA	Federal Emergency Management Agency

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1	IRWMP	Integrated Regional Water Management Plan
2	NEPA	National Environmental Policy Act
3	NMFS	National Marine Fisheries Service
4	NOAA	National Ocean and Atmospheric Administration
5	OES	Office of Emergency Services
6	Plan	Delta Plan prepared under Sacramento-San Joaquin Delta Reform Act of
7		2009 (Water code sections 84300-85309)
8	Reclamation	U. S. Bureau of Reclamation
9	RWQCB	Regional Water Quality Control Board
10	SBX7 1	Senate Bill 1 of the 2009-10 7th extraordinary session, including
11		revisions to Public Resources Code regarding the Delta Protection
12		Commission at sections 29702 through 29780, adding Division 22.3
13		(commencing with Section 32300) to the Public Resources Code creating
14		the Delta Conservancy, and adding Division 35 (commencing with
15		Section 85300) to the Water Code, the Sacramento-San Joaquin Delta
16		Reform Act of 2009
17	Strategic Plan	Both the <i>Delta Vision Strategic Plan</i> (2008) and the <i>Delta Vision</i>
18		<i>Implementation Report</i> (2008) (Water code section 85067)
19	SWP	State Water Project
20	SWRCB	California State Water Resources Control Board
21	TMDL	Total Maximum Daily Load
22	USDA	U.S. Department of Agriculture
23	USEPA	U.S. Environmental Protection Agency
24	USFWS	U.S. Fish and Wildlife Service
25	USGS	U.S. Geological Survey
26	UWMP	urban water management plan
27	Vision	Delta Vision: <i>Our Vision for the California Delta</i>
28	WA	Wildlife Area



## **Appendixes**





## Appendix I. Council Policies and Procedures

Formal policies and procedures are considered and adopted by the council and are included in this Interim Plan for reference only as they provide a basis for council operations. These policies and procedures will continue after the Delta Plan is adopted, although they may be amended by council action.

### 1. Procedures for Delta Stewardship Council Meetings (Adopted by the Council on April 22, 2010)

1. **Purpose:** These procedures are adopted for the purpose of providing for the orderly and effective conduct of meetings of the Delta Stewardship Council (Council).
2. **Open Meetings:** All meetings of the Council will be conducted in accordance with the Bagley-Keene Open Meeting Act (Government Code Sec. 11120 et seq.). Meetings of the Council will be open to the public, except for such closed sessions as authorized by that act (e.g., personnel decisions, pending litigation).
3. Meetings will be webcast (and then archived on the Internet) or otherwise recorded electronically, subject to available funding and the proper functioning of equipment.
4. **Time and Place of Regular Meetings:** Unless otherwise specified, the Council will meet regularly, on the fourth Thursday and Friday of every month, at the Secretary of State's Office Auditorium at 1500 11th Street, Sacramento, California. At least two regular meetings will take place at an alternate location within the boundaries of the legal Delta or Suisun Marsh.
5. **Special and Emergency Meetings:** Under certain limited circumstances necessitating immediate action, as specified in the Bagley-Keene Act, the Council may convene a special or an emergency meeting in accordance with that act.
6. **Hearings:** The Council may hold hearings in all parts of the state necessary to carry out the powers vested in it, and for these purposes, has certain powers conferred upon the heads of state departments specified in law (Government Code Sec. 11180 et seq.). Any hearing by the Council may be conducted by any member, or other designee, upon authorization of the Council, and he or she will have all powers duly granted to the Council under law, provided that any final action of the Council will be taken by a majority vote of the membership of the Council at a regular meeting.
7. **Teleconference Meetings:** The Council may conduct audio or audio/visual teleconference meetings in accordance with the Bagley-Keene Act. When a teleconference meeting is held, each site that includes a member of the Council must be listed on the agenda and accessible to members of the public; all proceedings must be audible; and votes must be taken by roll call. The Council may also provide members of the public with additional locations from which the public may observe or address the Council by electronic means.

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- 1 8. **Quorum/Voting:** A majority of the voting members of the Council will constitute a quorum for  
2 the transaction of the business of the Council. A majority vote of the voting membership is  
3 required to take action with respect to any matter. The vote of each member will be individually  
4 recorded. The board will not transact the business of the Council if a quorum is not present at  
5 the time a vote is taken; however, board members constituting less than a quorum may meet as  
6 a committee of the board and submit their recommendations to the board when a quorum is  
7 present.
- 8 9. **Election and Duties of Chair/Vice Chair:** Council members will elect a Chair and a Vice Chair  
9 from among the membership, each of whom will serve for not more than four years in that  
10 capacity. The Chair will preside over all meetings of the Council, maintain orderly procedure in  
11 accordance with these procedures and applicable law and decide questions of procedure  
12 subject to appeal to the full membership. The Chair may vote on all matters before the Council,  
13 may participate in discussions relating to any matter, and may second any motion without  
14 relinquishing the chair. In the Chair's absence or inability to act, the Vice Chair shall preside.
- 15 10. **Attendance/Duties of Executive Officer, Chief Counsel, and Assistant to Council:** The Executive  
16 Officer, or an appropriate designee, will attend all meetings of the Council, and be prepared to  
17 advise the Council on all matters coming before it and for implementing all actions taken by the  
18 Council. The Chief Counsel, or an appropriate designee, will attend all meetings of the Council,  
19 and will act as parliamentarian and be prepared to advise the Council on questions of law. The  
20 Assistant to the Council, or an appropriate designee, will attend all meetings of the Council,  
21 facilitate orderly public comment through the use of speaker request forms, and maintain a full  
22 and complete record of all meetings and the vote of each member as required by law and these  
23 procedures.
- 24 11. **Required Notice/Agendas:** The Assistant to the Council will ensure that notices of regular  
25 meetings, along with agendas that sufficiently describe the items of business to be transacted or  
26 discussed, are posted on the Internet and mailed, as appropriate, at least 10 days in advance of  
27 the meeting. The Executive Officer will prepare agendas for the Council, working closely with the  
28 Chair and other members, and with the Chief Counsel, regarding closed session items. Action  
29 items of a routine nature may be bundled together as a single consent calendar item; provided  
30 that any member may remove any item from the consent calendar, to be discussed and voted  
31 upon separately at an appropriate place in the agenda determined by the Chair, and the Council  
32 will then approve the remainder of the consent calendar. At the discretion of the Council, all  
33 items appearing on the agenda, whether or not expressly listed for action, may be deliberated  
34 upon and may be subject to action by the Council. A public comment period will be included at  
35 the end of each agenda, during which time, members of the public may address the Council—  
36 subject to reasonable time limits set by the Chair-- on matters within its jurisdiction, but not  
37 listed for action or discussion on that agenda. Items may not be added to a posted agenda,  
38 except in limited circumstances necessitating immediate action, as specified in the Bagley-Keene  
39 Act.
- 40 12. **General Format for Agenda Item Discussion at Meetings:** (A) The Council will discuss agenda  
41 items in sequential order; provided that the Chair may take items out of sequential order to  
42 accommodate the public or expedite the conduct of the meeting; (B) The Chair will clearly  
43 announce the agenda item number and state what the subject is; (C) the Chair will then invite  
44 the appropriate persons to report on the item, including any recommendations they may have;

(D) the Chair will ask members if they have any technical or other clarifying questions regarding the item; (E) the Chair will invite public comments on the item, and, if numerous members of the public wish to speak (as indicated by the number of speaker request forms submitted), may limit the time of each public speaker; (F) the Chair will invite a motion for the members, and announce the name of the member who makes the motion; (G) the Chair will determine if any member wishes to second the motion, and will announce the name of the member who seconds the motion. The Chair, in his or her discretion, may decide to proceed with consideration and a vote on the motion even when there is no second; (H) If the motion is made and seconded, the Chair will make sure that all members understand the motion; (I) the Chair will then invite discussion of the motion by the members; (J) the Chair will then take a vote, announce the results, and state what action (if any) the Council has taken.

13. **Overruling the Chair:** A decision of the Chair with respect to the interpretation or applicability of these procedures may be overruled by a majority vote of the membership of the Council.

14. **Robert's Rules:** If these procedures or the law do not clearly address a specific procedural situation, the Chair may refer to the current edition of Robert's Rules of Order for guidance.

## 2. Procedures for Bringing Actions before the Council

A variety of action items will be brought before the Council which relate to its statutory responsibilities under the Sacramento-San Joaquin Delta Reform Act of 2009 and other provisions of SBX7 1 of 2009.

The council will establish procedures for orderly consideration of such items and procedures to bring items before the council, including:

a. The council agenda will be developed in this priority:

1. Legally required items
2. Items scheduled through the council work plan
3. Recommendation by the council chair, approved by a majority of council members voting
4. Recommendations of council members, approved by a majority of council members voting

b. To ensure informed decision-making, the council strongly encourages agencies to provide in a timely manner the following types of information in connection with any plan, policy or project (e.g., the economic sustainability plan prepared by the Delta Protection Commission under Public resources code 29759 or local flood plans, transportation plans, or energy plans (Water code section 85307), to be reviewed or evaluated by the Council:

1. Identification of the authority under which the plan, policy or program is proposed
2. Information on financing proposed activities, including identifying sources of funding, public and private
3. Evidence of the status of all actions required by other governmental agencies for the proposed plan, policy or program to be implemented

4. Information needed to assess the proposed action's impact on all eight policy objectives enumerated in Water code section 85020, minimally requiring information sufficient to assess impact on the performance measures of those eight policy objectives

c. For council action on a project, the following information is recommended, to be provided in a form determined by the council:

1. Identification of the project proponent and all parties with an economic interest in the project
2. Adequate locality, site, and project descriptions
3. A time schedule through full use of the proposed project
4. Evidence of completion of reviews and actions by other governmental agencies, including but not limited to environmental documentation, species protection, and land use permits
5. Information on financing of the proposed project, including any public funding, and adequate demonstration of the status of proposed funding. The financing plan should include ongoing operations and maintenance and information on planned financial coverage of contingencies for failure
6. Information needed to assess the proposed action's impact on all eight policy objectives enumerated in Water code section 85020, including information sufficient to assess impact on the performance measures of those eight policy objectives
7. Any scientific and /or engineering assessments of the proposed action
8. For council action approving allocation of Proposition 1E funds under Water code 83002(a)(1), or similar actions,
  - (a) Project applicants must agree to indemnify the State of California for general liability costs related to the project.
  - (b) If there are 'real parties of interest' who benefit substantially from the project, the council request that the benefitting parties be identified in the DWR report, and a clear statement made of what portion of the local share is being financed by that benefitted party.
  - (c) The Department require other measures of project applicants which may reduce potential future liability, such as an annual notification to landowners of flood protection status.

### **3. Delta Stewardship Council Administrative Procedures Governing Appeals (Discussion Draft July 12, 2010)**

#### **Introduction**

1. Purpose. These administrative procedures govern how the Delta Stewardship Council considers appeals with regard to:

a) Adequacy of certifications of consistency with the Delta Plan submitted to the council by a state or local public agency pursuant to Water Code sections 85225.10 and 85225.30; and

b) Determinations by the Department of Fish and Game that the Bay Delta Conservation Plan has met the requirements of Water Code section 85320.

NOTE: Authority cited: Water Code sections 85001, 85020(h), 85022, 85057.5, 85200, 85210, 85212, 85225, 85225.5, 85225.10, 85225.15, 85225.20, 85225.25, 85225.30, 85300, 85320(e).

## **Review of Certifications of Consistency with Delta Plan**

2. Any state or local public agency proposing to undertake a covered action, as defined in Water Code section 85057.5 shall consult with the council at the earliest possible opportunity, and in no event later than 30 days before submitting its certification to the council pursuant to Water Code section 85225, to ensure that the project will be consistent with the Delta Plan. The council may delegate to a member of the council, its executive officer or his designee the authority to meet with the agency or its staff to review the consistency of such proposed action and to make recommendations for action to the council. During this early consultation, the agency may also seek clarification on whether the proposed project is a “covered action.”

NOTE: Authority cited: Water Code sections 85212, 85225, 85225.5, 85225.30.

3. At least 30 days prior to its submission of a certification to the council, the state or local public agency shall post its draft certification on its website, post it conspicuously in its office, and mail it to all persons requesting notice. Members of the public shall be given an opportunity to review and comment on it prior to its submission to the council, and their comments shall be included in the administrative record accompanying the certification.

NOTE: Authority cited: Water Code sections 85225, 85225.30.

4. Any certification of consistency filed by a state or local agency pursuant to Water Code section 85225 shall set forth detailed findings that the covered action is consistent with the Delta Plan. The filing shall include the indexed administrative record that was before the state or local agency at the time it made its certification. The indexed administrative record shall be certified by the state or local agency as being “full and complete.” The entire filing, including the indexed administrative record, shall be submitted in electronic form to facilitate availability and public access. The certification shall include a checklist on a form provided by the council, which shall set forth a list of items that must be covered. The certification of consistency and the administrative record shall be public records.

NOTE: Authority cited: Water Code sections 85225, 85225.30.

5. Any person, including any member of the council or its executive officer, who claims that a proposed covered action is inconsistent with the Delta Plan and, as a result of that inconsistency, that action will have a significant adverse impact on the achievement of one or both of the goals of the Act or implementation of government sponsored flood control programs to reduce risks to people and property in the Delta, may file an appeal no later than 30 calendar days after the filing of the certification of consistency with the council.

NOTE: Authority cited: Water Code sections 85225.10 (a), 85225.15, 85225.30.

6. The appeal shall clearly and specifically set forth the basis for the claim that the covered action is inconsistent with the Delta Plan. The appeal shall be in writing and set forth the following information:

- a) Appellant's name and address;
- b) The name and address of the party, if any, whose proposal is the subject of the appeal;
- c) A description of the covered action that is the subject of the state or local public agency certification;
- d) The identity of the state or local government body whose certification is being appealed;
- e) The specific grounds for appeal; and
- f) A detailed statement of facts on which the appeal is based.

The appeal shall be filed in electronic form.

NOTE: Authority cited: Water Code sections 85225.10 (b), 85225.30.

7. The appeal shall be considered "filed" with the council when the appellant's appeal is received and determined by staff to contain all of the information listed above.

NOTE: Authority cited: Water Code sections 85225.10, 85225.20, 85225.30.

8. Within five working days of filing of an appeal of a state or local public agency certification under these procedures, the executive officer shall:

- a) Post a notice and brief description of the appeal and its effective date in a conspicuous location in the council's office and on its website;
- b) Mail to the affected state or local public agency and any third party whose proposal is the subject of the certification a copy of the notice and a brief description, with a copy of the appeal documents filed with the council;
- c) Mail copies of the appeal to each member of the council; and
- d) Mail notice to the appellant that the appeal has been filed and stating the effective date of filing.

NOTE: Authority cited: Water Code sections 85225.30.

9. The appellant may, with the approval of the council or its executive officer, submit additional information from a reliable source that is both directly pertinent to the issue of consistency, and was widely-known and available at the time of the agency's certification, and that therefore should have been part of the record before the state or local agency seeking certification, but was not included in that agency's submission to the council. In addition, the council or its executive officer may request from the appellant further information necessary to clarify, amplify, correct, or otherwise supplement the information submitted with the appeal, within a reasonable period. The council or by delegation its executive officer may dismiss the appeal for failure of the appellant to provide information requested within the period provided, if the information requested is in the possession of or under the control of the appellant.

10. The council or its executive officer may augment the administrative record by its own action if it knows of, or is made aware of, additional information from a reliable source that is both directly pertinent to the issue of consistency, and was widely-known and available at the time of the agency's certification, and that therefore should have been part of the record before the state or local agency seeking certification, but was not included in the agency's submission to the council.

NOTE: Authority cited: Water Code sections 8225.10, 85225.20, 85225.25, 85225.30.

11. Any interested person may testify before the council regarding an appeal. Presentations may be oral or in writing, shall address the issues before the council, and shall be as brief as possible. The council's presiding officer may establish reasonable time limits for presentations. Any materials used or submitted to the council shall be made part of the hearing record.

NOTE: Authority cited: Water Code sections 85225.10, 85225.20, 85225.25, 85225.30.

12. All written submissions to the council may be in electronic form.

NOTE: Authority cited: Water Code section 85225.30.

13. The council shall hear all appeals of certifications of consistency filed pursuant to Water Code section 85225 within 60 days of filing unless:

a) The parties agree to a reasonable extension approved by the executive officer, taking into account the circumstances of the matter subject to appeal and the Council's hearing schedule and associated workload, or

b) The council, or by delegation its executive officer, determines that the issue raised on appeal is not within the council's jurisdiction or does not raise an appealable issue.

NOTE: Authority cited: Water Code sections 85225, 85225.20, 85225.30.

14. The council shall make its decision on the appeal within 60 days of hearing the appeal, and shall make specific written findings defining the covered action under review and either denying the appeal or remanding the matter to the state or local public agency for reconsideration of the covered action based on the finding that the certification of consistency is not supported by substantial evidence in the record before the state or local public agency that filed the certification.

NOTE: Authority cited: Water Code sections 85225.20, 85225.25, 85225.30.

15. No covered action which is the subject of an appeal shall be implemented unless one of the following conditions has been met:

a) The council has denied the appeal;

b) The public agency has pursuant to Water Code section 85225.5 decided to proceed with the action as proposed or modified and has filed with the council a revised certification of consistency addressing each of the findings made by the council, 30 days has elapsed and no person has appealed the revised certification; or

c) The council or its executive officer has dismissed the appeal for one or both of the following reasons:

1. The appellant has failed to provide information in her possession or under her control within the time requested or

2. The issue raised is not within the council's jurisdiction or fails to raise an appealable issue.

NOTE: Authority cited: Water Code sections 85225.5, 85225.25, 85225.30.

## **Review of Bay Delta Conservation Plan**

16. If the Department of Fish and Game (department) determines that the Bay Delta Conservation Plan (BDCP) referred to in Water Code section 85053 meets the requirements of Water Code section 85320, it shall file the BDCP and its determination with the council.

NOTE: Authority cited: Water Code sections 85053, 85225.30, 85320.

17. Upon receipt of the department's determination, the executive officer of the council shall:

a) Post a notice and brief description of the BDCP, the department's determination, the date of filing and the right of any person to appeal that determination on its website and in a conspicuous location in the council's office;

b) Mail a notice and brief description of the BDCP, the department's determination and the right of appeal to any person requesting notice; and

c) Mail copies of the determination to each member of the council.

NOTE: Authority cited: Water Code sections 85225.30, 85320 (e).

18. Any person, including any member of the council or its executive officer, may appeal to the council the determination of the department that the BDCP meets the requirements of Water Code section 85320.

NOTE: Authority cited: Water Code sections 85225.30, 85320 (e).

19. Any appeal to the council made under this chapter shall be made within 30 days of the filing with the council of the department's determination that the BDCP meets all the requirements of Water Code section 85320. The appeal shall be in writing and also in electronic form. It shall clearly set forth the specific grounds for the appeal and the specific facts upon which it is based. These shall include a list of each specific requirement of Water Code section 85320 that the BDCP allegedly fails to meet.

NOTE: Authority cited: Water Code sections 85225.30, 85320.

20. Within five working days of the filing of an appeal under these procedures, the executive director shall:

a) Post a notice and brief description of the appeal on its website and in a conspicuous location in the council's office;

b) Mail a notice and brief description of the appeal to any person requesting copies of such appeals; and

c) Mail copies of the appeal and a brief description of the appeal to each member of the council.

All mailings may be made in electronic form.

NOTE: Authority cited: Water Code sections 85225.30, 85320 (e).

21. The council or its executive officer may request from the appellant or the department additional information necessary to clarify, amplify, correct, or supplement the information submitted with the appeal within a reasonable period.

NOTE: Authority cited: Water Code sections 85225.30, 85320 (e).

22. Any appeal made under this section may be dismissed if the council or its executive officer determines that it does not raise an appealable issue or if the appellant has failed to provide requested information to support her charge within a reasonable time.



NOTE: Authority cited: Water Code sections 85225.30, 85320 (e).

23. The council's decision shall be based on its independent judgment in reviewing the applicable law and facts.

NOTE: Authority cited: Water Code section 85225.30, 85320(d).

24. If the council decides that the BDCP does not meet all of the requirements of section 85320, it shall post its decision on its website and mail copies to the department and all parties requesting notice.

NOTE: Authority cited: Water Code sections 85225.30, 85320(d).

25. The department may revise its determination to meet the issues raised by the council, or may respond to the council's findings in detail, setting forth reasons why it has concluded that the plan meets all of the requirements of section 85320. Unless the council decides that the BDCP, as submitted or revised, meets all of those requirements, the BDCP shall not be incorporated within the Delta Plan and the public benefits associated with the BDCP shall not be eligible for state funding.

NOTE: Authority cited: Water Code sections 85225.30, 85320 (a), (b), (e).

#### **Ex Parte Contact Restrictions Applicable to All Appeals**

26. Hearings on appeals are subject to the ex parte communication restrictions of California Administrative Procedures Act (Gov. Code § 11430.10 et seq.). Under that Act, an ex parte communication is a "communication, direct or indirect, regarding any issue in the proceeding, to the [council or council member] from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and opportunity for all parties to participate in the communication." (Gov. Code § 11430.10.) The restrictions apply from the date that the appeal is filed to the date that the council reaches a final decision on the appeal.

NOTE: Authority cited: Government Code sections 11430.10, 11430.80, Water Code section 85225.30.

27. To ensure compliance with these provisions, members should avoid ex parte communications while an appeal is pending. If they nevertheless receive one, such as by an individual sending a letter to a member concerning a pending matter, the member should notify the council's legal adviser or executive officer so that appropriate measures can be taken.

NOTE: Authority cited: Government Code sections 11430.10, 11430.80, Water Code section 85225.30

28. At the first appropriate meeting after an appeal is anticipated or filed, the council's legal adviser will remind the council of this restriction and answer questions about its scope.

NOTE: Authority cited: Government Code sections 11430.10, 11430.80, Water Code section 85225.30.

#### **Official Notice**

29. Notwithstanding any provision of these procedures to the contrary, the council may take official notice in any hearing that it conducts, of any generally accepted technical or scientific matter within the council's jurisdiction, and of any fact that may be judicially noticed by the courts of this State.

NOTE: Authority cited: Government Code section 11515, Water Code section 85225.30.

#### **Filings and Mailings**

30. All filings and mailings required by sections 1-29 of these procedures may be made electronically. NOTE: Authority cited: Water Code section 85225.30.

## **4. Statutory Provisions Requiring Other Consistency Reviews (After Adoption of the Delta Plan) (Discussion Draft July 12, 2010)**

In several other sections of SB X7 1, the council is directed to review for consistency with the Delta Plan, various plans of specified public agencies. This section is directed at those reviews, which fall outside the scope of the procedures covered previously.

### **1. Delta Protection Commission's Economic Sustainability Plan.**

Public Resources Code section 29759 requires the Delta Protection Commission (DPC), by July 1, 2011, to adopt an economic sustainability plan. That plan must include information and recommendations that inform the council's policies regarding the socioeconomic sustainability of the Delta's region.

Public Resources Code section 29761.5(b) requires the DPC to transmit copies of the plan to the council within 60 days of adoption. The council is required, within 180 days of the adoption of the plan, to review the plan for consistency with the Delta Plan.

### **2. Local and Regional Planning Documents.**

Water Code section 85057.5(b)(3), excepts from the definition of "covered action", regional transportation plans prepared pursuant to Government Code Section 65080.

Paragraph (4) of that same section, excepts from the definition of "covered action", plans, programs, projects or activities within the secondary zone of the Delta that the applicable metropolitan planning organization under Government Code section 65080 has determined is consistent with either a sustainable communities strategy or an alternative planning strategy that would achieve specified greenhouse gas emission reduction targets as determined by the Air Resources Board.

Because they are not "covered actions", these types of local and regional planning documents are not subject to the statutory provisions governing consistency of state and local public agency actions (Water Code Sections 85225 et seq.), or the council's Administrative Procedures Governing Appeals, with one exception noted in paragraph (d), below.

However, Water Code section 85212 provides a separate requirement and process for consistency review by the council of these types of local and regional planning documents.

In particular:

(a) The council is required to review and provide timely advice to local and regional planning agencies regarding the consistency of local and regional planning documents, including sustainable communities strategies and alternative planning strategies prepared pursuant to Government Code section 65080, with the Delta Plan.

(b) The council's input must include, but not be limited to, reviewing the consistency of local and regional planning documents with the ecosystem restoration needs of the Delta and reviewing whether the lands set aside for natural resources protection are sufficient to meet the Delta's ecosystem needs.

(c) A metropolitan planning organization preparing a regional transportation plan that includes land within the primary or secondary zones of the Delta must consult with the council early in the planning process regarding the issues and policy choices relating to the council's advice.

(d) No later than 60 days prior to the adoption of a final regional transportation plan, the metropolitan planning organization must provide the council with a draft sustainable communities strategy and an alternative planning strategy, if any. Concurrently, the metropolitan planning organization must provide notice of its submission to the council in the same manner in which agencies file a certificate of consistency with regard to covered actions.

(e) If the council concludes that the draft strategies are inconsistent with the Delta Plan, the council must provide written notice of the claimed inconsistency to the metropolitan planning organization no later than 30 days prior to the adoption of the final regional transportation plan.

(f) If the council provides timely notice of a claimed inconsistency, the metropolitan planning organization's adoption of the final regional transportation plan must include a detailed response to the council's notice.

## **5. Administrative Procedures Governing Other Forms of Review or Evaluation (Discussion Draft July 12, 2010)**

1. Interested parties, including federal, state and local public agencies, are encouraged to confer with the council or its executive officer over the scope and potential impacts of the interim plan developed under Water Code section 85084. Interested parties will be provided an opportunity to comment and provide input on the interim plan as it is developed.

2. Similarly, prior to adoption of the Delta Plan, project proponents are encouraged to consult with the council or its executive officer early in the planning stages of projects that may constitute "covered actions" under Water Code section 85057.5 once the Delta Plan is adopted.

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1 Subject to available resources, the council may review and comment on planning documents  
2 and environmental review documents regarding potential “covered actions”.

3  
4 3. Subject to available resources, the executive officer or his designee may meet with interested  
5 parties, upon their request, to help mediate relevant disputes, including disputes, once the Delta  
6 Plan is adopted, over whether a project constitutes a "covered action" under Water Code section  
7 85057.5. The intent of this mediation will be to provide an objective and informal forum for  
8 dispute resolution that will serve as a more efficient alternative to costly and time- consuming  
9 litigation.

10  
11 4. Interested parties, including federal, state and local agencies, are encouraged to confer and  
12 coordinate with the council or its executive officer with regard to agency plans, studies,  
13 strategies, and recommendations required, or otherwise suggested, to be considered by the  
14 council for incorporation into the Delta Plan.

## Appendix II. Council Approved Actions

Appendix II contains a record of Council-approved actions. It is intended to be the formal record of final Council actions in satisfying SBX7 1. It will include, for example, any actions taken in regard to approval of the economic sustainability plan of the Delta prepared by the Delta Protection Commission (Public Resources Code Section 29761.5(b)), actions regarding BDCP (Section 85320(e)), or adoption of the Interim Plan (Water Code Section 85084). The appendix will not include requests of other agencies or interim actions taken unless they have some formal effect on actions (e.g., an interim ruling). This listing of council approved actions will continue after the Delta Plan is adopted.

**TABLE A-1: Council Approved Actions**

Date of Council action	Action ("Project" is used consistent with Public Resources Code Section 20165)	Responsible Agency	Relevant code sections	Relevant section of Interim Plan or Delta Plan
April 22, 2010	Council meeting procedures	Council	Water code 85210(i) and water code 85201(a)	NA
June 24, 2010	Appoint Independent Delta Science Board members	Council	Water code 85080	NA
June 25, 2010	Approved encumbering funds for design, planning and environmental review of 10 identified projects	DWR and reclamation districts	Water code 83002(a)(1)	NA



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# Appendix III. Council Work Plan (DRAFT: illustrative only)

Appendix III is a work plan for the Council, similarly a process anticipated to continue after the Delta Plan is adopted. Items are added to the work plan and assigned a target date for action by the Council. In time, the work plan is likely to include regularly scheduled events, such as annual updates in the tools identified in Section IV, or reports on the policy implications of biannual Delta science conferences. Consideration of items and scheduling for consideration should include consultations with other agencies, perhaps including the committee of agencies required under Water Code section 85204.

Identifier (year and sequence number)	Activity	DSC Role			Policy Objective (Section 85020 subsection)		Responsible Parties				Timeline		
		Determine consistency with Delta Plan or Interim Plan	Approve (specify authority)	Other (specify authority)	Primary	Other(s)	Initiate	Complete	Finance	Operate	Date placed in DSC work plan	Activity completed (if appropriate)	Time for next DSC action (specify)
2010-0001	Delta Region Flood Emergency Response Exercise			85305(a)	g		DWR				xxx	yyy	zzz
2010-0002	North Delta Flood Control and Ecosystem Restoration Project	X			g	c	DWR, USACE, RD 2110, TNC				xxx	yyy	zzz
2010-0003	Delta Wetlands project	x			g		owners?				xxx	yyy	zzz
2010-0004	Fish Screen and Passage Program			85302(c )	c		DFG				xxx	yyy	zzz

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2010-0005	North Bay Aqueduct Alternative Intake Project	x			e	f	DWR, Solano County Water agency				xxx	yyy	zzz
2010-0006	State and federal designation of the Delta as a place of special significance			85301(b)(1)	b		DPC				xxx	yyy	zzz
2010-0007	Review Delta Protection Commission Land Use and Resource Management Plan			29703.5(a)	b		DPC				xxx	yyy	zzz



## **Appendix IV: Basic Legal Authorities**

Water Code Section 85020 lists the state’s policy objectives for the Delta. The Council has authority for action under these objectives. This appendix summarizes those authorities.

### **Section 85020(a): Manage the Delta’s water and environmental resources and the water resources of the state over the long term.**

Section 85020 of the Delta Reform Act identifies policy objectives essential to achieving the coequal goals. As previously indicated, the Council views the coequal goals defined in Public Resources Code Section 29702(a) as a complete statement of state policy. This understanding of the definition of “coequal goals” is repeated in Water Code Section 85054, and directly or indirectly implied in other sections of the legislation. Thus, the objectives must be viewed through the prism of the coequal goals, according to the plain language of the statute, “The policy of the State of California is to achieve the following objectives that the Legislature declares are inherent in the coequal goals for management of the Delta...”

The Delta Reform Act includes specific provisions that are addressed in more detail in the remaining portions of this section related to ecosystem restoration under Section 85020(c) and water supply reliability through water use efficiency and sustainable water use (Section 85020(d), improved Delta water quality (Section 85020(e), improved water conveyance and statewide storage (Section 85020(f), and reduced risks to people and property in the Delta (Section 85020(g)).

Section 85082 requires the Council to develop and implement a strategy to engage federal agencies, including incorporating issues addressed in Sections II and III and IV.A of the December 22, 2009 Interim Federal Action Plan for the California Bay-Delta that are relevant to policy objectives 85020(c)(d)(e) and (f).

### **Section 85020(b): Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place**

Water Code Section 85020(b) identifies the need to “protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place” as one of the key policy objectives.

SBX7 1 also includes provisions related to the DPC, Delta land use, and economic development in the Delta. The DPC is identified as:

- The appropriate agency to identify and provide recommendations to the Council on methods of preserving the Delta as an evolving place (Public Resources Code Section 29703.5(a))
- Eligible to be “the facilitating agency for the implementation of any joint habitat restoration plan or enhancement programs located within the primary zone of the Delta...,” including a National Heritage Area designation in the Delta (Section 29756.5)
- Required to submit to the Legislature “recommendations regarding the potential expansion of or a change to the primary zone or the Delta” including considerations of Rio Vista, Isleton,

Bethel Island, Brannan-Andrus Island, the Cosumnes/Mokelumne floodway, and the San Joaquin/South Delta lowlands (Section 29773.5) by July 1, 2010.

Water Code Section 85301 requires the DPC (referred to as “commission” in Code section) and other agencies to propose recommendations to the Council that the Council may include in the Delta Plan:

(a) The commission shall develop, for consideration and incorporation into the Delta Plan by the council, a proposal to protect, enhance and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place, in a manner consistent with the coequal goals.

(b)(1) The commission shall include in the proposal a plan to establish state and federal designation of the Delta as a place of special significance, which may include application for a federal designation of the Delta as a National Heritage Area.

(2) The commission shall include in the proposal a regional economic plan to support increased investment in agriculture, recreation, tourism and other resilient land uses in the Delta. The regional economic plan shall include detailed recommendations for the administration of the Delta Investment Fund...

(c)(1) The Department of Parks and Recreation shall prepare a proposal...to expand within the Delta the network of state recreation areas, combining existing and newly designated areas.

(2) The Department of Food and Agriculture shall prepare a proposal...to establish market incentives and infrastructure to protect and enhance the economic and public values of Delta agriculture.

(d) The commission shall submit the proposal developed pursuant to subdivision (a) to the council. The council shall consider the proposal and may include any portion of the proposal in the Delta Plan if the council, in its discretion, determines that the portion of the proposal is feasible and consistent with the objectives of the Delta Plan and the purposes of this division.

Additionally, SBX7 1 also creates the Delta Investment Fund (Public Resources Code Section 29778.5), allows the Delta Conservancy to allocate funds for “economic sustainability in the Delta” (Section 32360(b)(3)), and articulates a series of “fundamental goals for managing land use in the Delta” (Water Code Section 85022(d)).

### **Section 85020(c): Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem**

The Delta Reform Act included Section 85020(c) to “restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem” as an objective for management of the Delta. In addition, the Delta Reform Act modified the Water Code to include the following provisions related to sustainable water supplies.

- Section 85302(c) details that the Delta Plan must address the Delta ecosystem, including “measures that promote all of the following characteristics of a healthy Delta ecosystem:
  - Viable populations of native resident and migratory species
  - Functional corridors for migratory species

- Diverse and biologically appropriate habitats and ecosystem processes
- Reduced threats and stresses on the Delta ecosystem
- Conditions conducive to meeting or exceeding the goals in existing species recovery plans and state and federal goals with respect to doubling salmon populations"
- Section 85302(e) identifies "subgoals and strategies for restoring a healthy ecosystem," which are:
  - "Restore large areas of interconnected habitats within the Delta and its watershed by 2100
  - Establish migratory corridors for fish, birds, and other animals along selected Delta river channels
  - Promote self-sustaining, diverse populations of native and valued species by reducing the risk of take and harm from invasive species
  - Restore Delta flows and channels to support a healthy estuary and other ecosystems
  - Improve water quality to meet drinking water, agriculture, and ecosystem long-term goals
  - Restore habitat necessary to avoid a net loss of migratory bird habitat and, where feasible, increase migratory bird habitat to promote viable populations of migratory birds"

The Delta Reform Act also contains the following provisions related to the management of the Delta ecosystem:

- Sections 32360 through 32381 describe the responsibilities of the Delta Conservancy to support the ecosystem
- Section 85086(c)(1) requires the SWRCB to "...develop new flow criteria for the Delta ecosystem necessary to protect public trust resources" for the purpose of informing planning decisions for the Delta Plan and the BCDP
- Section 85087 requires the SWRCB to "submit to the Legislature a prioritized schedule...to complete instream flow studies for the Delta and for high priority rivers and streams in the Delta watershed...by 2012, and for all major rivers and streams outside the Sacramento River watershed by 2018" in consultation with the DFG
- Sections 85088 through 85089 describes conditions under which the point of diversion for the SWP and CVP may be moved
- Section 85320 describes requirements under which the BDCP may be incorporated into the Delta Plan, including requirements for consideration of ecosystem conditions

## **Section 85020(d): Promote statewide water conservation, water use efficiency, and sustainable water use**

Several legislative acts have been adopted over the past 30 years to increase the amount of water conservation. In 1985, the California Urban Water Management Planning Act was adopted to require municipal and industrial users with more than 3,000 connections or use of more than 3,000 acre-

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feet/year to prepare an urban water management plan (UWMP). The UWMP was required to include existing and projected water supplies and demands, water supply allocations, comparison of supplies and demands, water demand management program (conservation), wastewater recycling, and water shortage contingency plans. In 1990, the Water Conservation in Landscaping Act was adopted to develop a model water efficient landscape ordinance. In 2004, Assembly Bill 2717 was adopted to request that the California Urban Water Conservation Council convene a task force and develop a model local water efficient landscape ordinance.

In 1990, the Agricultural Water Suppliers Efficient Water Management Practices Act of 1990 (AB 3616) was adopted. This act supported the voluntary implementation of efficient agricultural water management practices and led to the formation of the Agricultural Water Management Council and preparation of Agricultural Water Management Plans that included an evaluation of net benefits of efficient management practices.

Legislation adopted in November 2009 as SB7X 7 created a framework for future planning and actions by urban and agricultural water suppliers to reduce California's water use. This bill changed Division 6 of the Water Code to include water use reduction targets and interim targets and plans for both urban and agricultural water suppliers and users, including the following sections, and data reporting methods and frequencies.

- Section 10608.16 requires that the state achieve a 20-percent reduction in urban per capita water use in California on or before December 31, 2020, and reduce urban per capita water use by at least 10 percent on or before December 31, 2015.
- Section 10608.20 requires that each urban retail water supplier develop urban water use targets and an interim urban water use target by July 1, 2011.
- Section 10608.48(a) requires that an agricultural water supplier implement specified efficient water management practices on or before July 31, 2012.
- Section 10608.64 requires that DWR, in consultation with the Agricultural Water Management Council, academic experts, and other stakeholders, develop a methodology for quantifying the efficiency of agricultural water use and report to the legislature by December 31, 2011.

The legislation also included the Agricultural Water Management Planning Act that changed the Water Code in Section 10820 to require agricultural water management plans to be prepared by December 31, 2012, and updated by on December 31, 2015 and every 5 years thereafter. Water users that do not comply with this requirement would not be eligible for California water grants or loans without indicating compliance. The legislation also stated that agricultural water suppliers with less than 25,000 acres irrigated with non-recycled water would not need to comply with these changes to the Water Code unless funding is provided for implementation.

The Delta Reform Act included Section 85020(d) to "Promote statewide water conservation, water use efficiency, and sustainable water use" as an objective for management of the Delta. In addition, the Delta Reform Act modified the Water Code to include the following provisions related to sustainable water supplies.

- Section 85021 states, "The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and

regional water supply projects, and improved regional coordination of local and regional water supply efforts.”

- Section 85303 states, “The Delta Plan shall promote statewide water conservation, water use efficiency, and sustainable use of water.”
- Section 85086(a) instructs the SWRCB to establish an effective system of Delta watershed diversion data collection and public reporting by December 31, 2010. Additional data reporting by surface water diverters and groundwater users were required through modifications in the Water Code by the adoption of SBX 8 and SBX 6, respectively.

In addition to state law, several federal laws have been adopted to support water use efficiency with CVP water users. The 1982 Reclamation Reform Act and the 1992 Central Valley Project Improvement Act (Title 34 of Public Law 102-575) included water conservation criteria to develop best management practices and reporting requirements for urban and agricultural water users. The Reclamation Wastewater and Groundwater Studies Feasibility Act of 1992 (Title XVI of Public Law 102-575) provided for the Secretary of the Interior to establish a federal water reclamation, recycling, and reuse program in the 17 western United States where Reclamation provides services and Hawaii, and to conduct research for wastewater reclamation and treatment of impaired surface waters and groundwater.

Although, not being conducted in accordance with specific legislation, the SWRCB is currently updating the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, including considerations related to improved near-term and long-term water use efficiency.

## **Section 85020(e): Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta**

The Porter-Cologne Act is the basic water quality control legislation in California, and is administered by the SWRCB and RWQCBs (collectively known as the Water Boards). The Water Boards also implement portions of the federal Clean Water Act related to water quality of waters of the United States in accordance with approval by the U.S. Environmental Protection Agency (USEPA). Water quality requirements are developed by the Water Boards to meet water quality objectives and protect designated beneficial uses. The SWRCB also administers statewide water rights. The SWRCB has historically issued water rights decisions and orders that have modified SWP and CVP operations to protect the Bay and Delta objectives and beneficial uses.

The Delta Reform Act included Section 85020(e) to "Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta" as an objective for management of the Delta. In addition, the Delta Reform Act modified the Water Code to include the following provisions related to water quality.

- Section 85022(d)(6) includes fundamental goals for managing land use in the Delta to “Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta”
- Section 85302(d)(3) includes measures to promote a more reliable water supply, including "Improving water quality to protect human health and the environment"
- Section 85302(e)(5) includes subgoals and strategies for restoring a healthy ecosystem in the Delta Plan including "Improve water quality to meet drinking water, agriculture, and ecosystem long-term goals"

## **Section 85020(f): Improve the water conveyance system and expand statewide water storage**

The Delta Reform Act included Section 85020 to "improve the water conveyance system and expand statewide water storage" as an objective for management of the Delta. In addition, the Delta Reform Act modified the Water Code to include the following provisions related to water conveyance and storage.

- Section 85004 states that the Legislature "finds and declares all of the following:
  - (a) The economies of major regions of the state depend on the ability to use water within the Delta watershed or to import water from the Delta watershed. More than two-thirds of the residents of the state and more than two million acres of highly productive farmland receive water exported from the Delta watershed.
  - (b) Providing a more reliable water supply for the state involves implementation of water use efficiency and conservation projects, wastewater reclamation projects, desalination, and new and improved infrastructure, including water storage and Delta conveyance facilities"
- Section 85304 states, "Delta Plan shall promote options for new and improved infrastructure relating to the water conveyance in the Delta, storage systems, and for the operation of both to achieve the coequal goals"
- Section 85320(b)(2)(B) states that the BDCP shall not be incorporated into the Delta Plan unless the BDCP environmental documentation evaluates a "reasonable range of Delta conveyance alternatives, including through-Delta, dual conveyance, and isolated conveyance alternatives and including further capacity and design options of a lined canal, an unlined canal, and pipelines"
- Section 85320 (b)(2)(F) states that the BDCP environmental documentation must include a comprehensive review and analysis of "resilience and recovery of Delta conveyance alternatives in the event of catastrophic loss caused by earthquake or flood or other natural disaster"

## **Section 85020(g): Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection**

Section 85020 includes "(g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection" as an objective for management of the Delta. In addition, SBX7 1 makes other amendments or additions for risk reduction in the following codes:

- Section 29702 includes "(d) Improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety."
- Section 29759 instructs the DPC to prepare the economic sustainability plan, including "(b)(1) Public safety recommendations, such as flood protection recommendations."
- Section 85305 states, "(a) The Delta Plan shall attempt to reduce risks to people, property, and state interests in the Delta by promoting effective emergency preparedness, appropriate land uses, and strategic levee investments. (b) The council may incorporate into the Delta Plan the

emergency preparedness and response strategies for the Delta developed by the California Emergency Management Agency pursuant to Section 12994.5.”

SBX7 1 also identifies possible early actions related to this policy objective, including:

- Develop and implement a strategy to engage federal agencies (Section 85082) including building off the Interim Federal Action Plan for the California Bay-Delta (December 22, 2009), Section IV.B (pages 22-23).
- Coordinate with and support DWR, in consultation with the U.S. Army Corps of Engineers (Corps) and the Central Valley Flood Protection Board, in preparation of a plan to coordinate flood and water supply operations of the SWP and CVP (Section 85309).
- Section 85306 states, “The council, in consultation with the Central Valley Flood Protection Board, shall recommend in the Delta Plan priorities for state investments in levee operation, maintenance, and improvements in the Delta, including both levees that are a part of the State Plan of Flood Control and nonproject levees.”

### **Section 85020(h): Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives**

The recently enacted SBX7 1 and the companion bills adopted in 2009 make fundamental changes in the governance structure of the Delta and agencies that deal with the complex interaction of water laws and the Delta ecosystem and Delta as place. It is the intention of the Council to evaluate how those changes work with the old system and to make recommendations for inclusions in the Interim Plan and/or the Delta Plan that help to explain, clarify, and reinforce the important statutory actions.

The Act includes major governance reforms, creating the Council as an independent state agency (Water Code Section 85200) and making it the successor to the California Bay Delta Authority (Section 85034), including a reconstituted Delta Independent Science Board (Sections 85080 and 85280), creating a new Delta Conservancy (Public Resources Code Section 32320), revising the composition and responsibilities of the DPC (Sections 29735-29754), and giving the Council responsibility to develop and implement the Delta Plan to guide actions of state and local agencies (Water Code Section 85300). The Act also assigns responsibilities to the SWRCB (e.g., Sections 85086 through 85089), the DFG (e.g., Section 85084.5), and the DWR (e.g., Sections 85085 and 85309) among state agencies. New policies are established for completion of the BDCP (e.g., Sections 85320, 85321). In other sections, SBX7 1 establishes or reinforces broad state policy, including reducing reliance on the Delta for water supply linked to increased regional self reliance (Section 85021), establishing reasonable use and public trust as the foundation of state water policy (Section 85023), and requiring use of performance measures in implementing the Delta Plan (Section 85211).

These new legal authorities and policies will require consistent, effective effort to launch and sustain. The Council will have to establish procedures and policies for its work, as will the newly created Delta Conservancy. Working relationships will have to be established with other agencies. Areas of overlapping jurisdiction and competencies will have to be sorted out. A specific such example is the geographical overlap of authority in the Suisun Marsh of the existing San Francisco Bay Conservation and Development Commission and the Delta Plan, but many other examples exist with local governments and state agencies. Critically, the Act provides no long-term financing for operations of the Council or the Delta Conservancy, nor increased funding for the DPC, which was assigned additional responsibilities. Equally important, no funding streams are identified for any projects of these entities.

The Delta Reform Act includes three interim actions related to this policy objective:

- Appoint a Delta Independent Science Board (Section 85080).
- Develop and implement a strategy to engage federal agencies (Section 85082), including building off the Interim Federal Action Plan for the California Bay-Delta (December 22, 2009), Section I (pages 7-8).
- Consult with and support the SWRCB in appointing a Delta Watermaster (Section 85230).

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## **Appendix V: Strategies and Actions from the Delta Vision Strategic Plan and Other Sources (Illustrative Only)**

Water Code Section 85300(a) requires that strategies and actions set forth in the *Delta Vision Strategic Plan* be considered by the Council for inclusion in the Delta Plan. The strategies and actions are listed in this appendix for reference. Additionally, the Act requires submission of plans, proposals, or recommendations from a number of agencies which may include strategies and actions for discretionary consideration by the Council for inclusion in the Delta Plan. These would be considered by the Council as they are completed. If they are submitted to the Council after they can reasonably be considered for the first Delta Plan, they would be considered when the Delta Plan is updated.

This appendix is not a list of activities approved by the Council, nor an indication that the activities listed will ultimately be included.

### **Goals, Strategies, and Actions from the Delta Vision Strategic Plan**

#### **Goal 1: Legally acknowledge the co-equal goals of restoring the Delta ecosystem and creating a more reliable water supply for California**

**Strategy 1.1:** Make the co-equal goals the foundation of Delta and water policy making.

**Action 1.1.1:** Write the co-equal goals into the California Constitution or into statute.

**Action 1.1.2:** Incorporate the co-equal goals into the mandated duties and responsibilities of all state agencies with significant involvement in the Delta.

**Action 1.1.3:** Require the achievement or advancement of the co-equal goals in all water, environmental, and other bonds, and operational agreements and water contracts or water rights permits that directly or indirectly fund activities in the Delta.

#### **Goal 2: Recognize and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place, an action critical to achieving the co-equal goals**

**Strategy 2.1:** Apply for federal designation of the Delta as a National Heritage Area, and expand the State Recreation Area network in the Delta.

**Action 2.1.1:** Apply by 2010 for the designation of the Delta as a federally recognized National Heritage Area.

**Action 2.1.2:** Expand by 2010 the State Recreation Area network in the Delta, combining existing and newly designated areas.

**Strategy 2.2:** Establish market incentives and infrastructure to protect, refocus, and enhance the economic and public values of Delta agriculture.

**Action 2.2.1:** Establish special Delta designations within existing federal and state agricultural support programs.

**Action 2.2.2:** Conduct needed research and development for agricultural sustainability in the Delta.

**Action 2.2.3:** Establish new markets for innovative agricultural products and enterprises in the Delta.

**Strategy 2.3:** Develop a regional economic plan to support increased investment in agriculture, recreation, tourism, and other resilient land uses.

**Action 2.3.1:** Charge the Delta Protection Commission with facilitating a consortium of local governments to create a regional economic development plan that addresses agriculture, recreation, tourism, and other innovative land uses.

**Action 2.3.2:** Establish special enterprise zones at the major “gateways” to the Delta as part of the economic development plan.

**Strategy 2.4:** Establish a Delta Investment Fund to provide funds for regional economic development and adaptation.

**Action 2.4.1:** Initiate the Delta Investment Fund with state funding.

**Action 2.4.2:** Structure the Fund so that it can accept revenues from federal, state, local, and private sources.

**Action 2.4.3:** Place the Fund under the joint management of the Delta Protection Commission and a consortium of local governments.

**Strategy 2.5:** Adopt land use policies that enhance the Delta’s unique values, and that are compatible with the public safety, levee, and infrastructure strategies of Goal 6.

**Actions:** See Goals 3 and 6 for actions to address this Strategy.

### **Goal 3: Restore the Delta ecosystem as the heart of a healthy estuary**

**Strategy 3.1:** Restore large areas of interconnected habitats—on the order of 100,000 acres—within the Delta and its watershed by 2100.

**Action 3.1.1:** Increase the frequency of floodplain inundation and establish new floodplains.

**Action 3.1.2:** Restore tidal habitats and protect adjacent grasslands and farmlands throughout the Delta, with active near-term pursuit of restoration targets.

**Strategy 3.2:** Establish migratory corridors for fish, birds, and other animals along selected Delta river channels.

**Action 3.2.1:** Improve physical habitats along selected corridors by 2015.

**Action 3.2.2:** Provide adequate flows at the right times to support fish migrations, and reduce conflicts between conveyance and migration, by 2012.

**Action 3.2.3:** Immediately use the Central Valley Flood Protection Plan to identify areas of the San Joaquin River within and upstream of the Delta where flood conveyance capacity can be expanded.

**Action 3.2.4:** Using the National Heritage Area and regional economic development planning efforts, begin immediately to identify ways to encourage recreational investment along the key river corridors.

**Strategy 3.3:** Promote viable, diverse populations of native and valued species by reducing risks of fish kills and harm from invasive species.

**Action 3.3.1:** Reduce fish kills in Delta pumps by instituting diversion management measures by 2009, implementing near-term conveyance improvements by 2015, and relocating diversions.

**Action 3.3.2:** Control harmful invasive species at existing locations by 2012, and minimize or preclude new introductions and colonization of new restoration areas to non-significant levels.

**Strategy 3.4:** Restore Delta flows and channels to support a healthy Delta estuary.

**Action 3.4.1:** Charge the Department of Fish and Game with completing recommendations for in-stream flows for the Delta and high priority rivers and streams in the Delta watershed by 2012 and for all major rivers and streams by 2018.

**Action 3.4.2:** Develop and adopt management policies supporting increased diversion during wet periods, a joint effort of the State Water Resources Control Board, the Department of Fish and Game, the Department of Water Resources, and related federal agencies, to be completed by 2012.

**Action 3.4.3:** Adopt new State Water Resources Control Board requirements by 2012 to increase spring Delta outflow. Commence implementation no later than 2015.

**Action 3.4.4:** Adopt new State Water Resources Control Board requirements by 2012 to reintroduce fall outflow variability no later than 2015.

**Action 3.4.5:** Increase San Joaquin River flows between February and June by revising the State Water Resources Control Board's Vernalis flow objectives and the state and federal water projects' export criteria. Revise the flow objectives and criteria no later than 2012 and commence implementation as soon as possible thereafter.

**Action 3.4.6:** Provide short-duration San Joaquin River pulse flows in the fall starting by 2015.

**Action 3.4.7:** Reconfigure Delta waterway geometry by 2015 to increase variability in estuarine circulation patterns.

**Strategy 3.5:** Improve water quality to meet drinking water, agriculture, and ecosystem longterm goals.

**Action 3.5.1:** Require the Central Valley Regional Water Quality Control Board to conduct three actions:

\_ Immediately re-evaluate wastewater treatment plant discharges into Delta waterways and upstream rivers and set discharge requirements at levels that are fully protective of human health and ecosystem needs.

\_ Adopt by 2010 a long-term program to regulate discharges from irrigated agricultural lands.

\_ Review by 2012 the impacts of urban runoff on Delta water quality and adopt a plan to reduce or eliminate those impacts.

**Action 3.5.2:** Relocate as many Delta drinking water intakes as feasible away from sensitive habitats and to channels where water quality is higher.

**Action 3.5.3:** Establish Total Maximum Daily Load programs by 2012 for upstream areas to reduce organic and inorganic mercury entering the Delta from tributary watersheds.

**Action 3.5.4:** Begin comprehensive monitoring of water quality and Delta fish and wildlife health in 2009.

## **Goal 4: Promote statewide water conservation, efficiency, and sustainable use**

**Strategy 4.1:** Reduce urban, residential, industrial, and agricultural water demand through improved water use efficiency and conservation, starting by achieving a statewide 20 percent per capita reduction in water use by 2020.

**Action 4.1.1:** Improve statewide water use efficiency and conservation.

**Action 4.1.2:** Reduce urban per-capita water demand through specific recommended actions.

**Action 4.1.3:** Ensure the most efficient use of water in agriculture.

**Strategy 4.2:** Increase reliability through diverse regional water supply portfolios.

**Action 4.2.1:** Modify the Water Recycling Act of 1991 to add a statewide target to recycle on the order of 1.5 million acre-feet of water annually by 2020.

**Action 4.2.2:** Enact legislation now to encourage local water agencies to at least triple the current statewide capacity for generating new water supplies through ocean and brackish water desalination by 2020.

**Action 4.2.3:** Request that the State Water Resources Control Board set goals by 2015 for infiltration and direct use of urban storm water runoff throughout the Delta watershed and its export areas.

**Action 4.2.4:** Request agencies to ensure that accurate and timely information is collected and reported on all surface water and groundwater diversions in California by 2012.

**Action 4.2.5:** Require that all water purveyors develop an integrated contingency plan by 2015 in case of Delta water supply curtailments or drought.

**Action 4.2.6:** Establish a regulatory framework that encourages efficient and integrated management of water resources at local, regional, and statewide levels, with a focus on specific actions.

## **Goal 5: Build facilities to improve the existing water conveyance system and expand statewide storage, and operate both to achieve the co-equal goals**

**Strategy 5.1:** Expand options for water conveyance, storage, and improved reservoir operations.

**Action 5.1.1:** Direct the Department of Water Resources and other allied agencies to further investigate the feasibility of a dual conveyance facility, building upon the Bay Delta Conservation Plan effort.

**Action 5.1.2:** Direct the Department of Water Resources, the Department of Fish and Game, and other allied agencies to recommend the size and location of new storage and conveyance facilities by the end of 2010. Develop a long-term action plan to guide design, construction, and operation, and present the recommendation and plan to the California Delta Ecosystem and Water Council for a consistency determination.

**Action 5.1.3:** Complete substantial development and construction of new surface and groundwater storage and associated conveyance facilities by 2020, with the goal of completing all planned facilities by 2030.

**Strategy 5.2:** Integrate Central Valley flood management with water supply planning.

**Action 5.2.1:** Change the operating rules of existing reservoirs to incorporate and reflect modern forecasting capabilities.

**Action 5.2.2:** Require the Department of Water Resources to immediately create a flood bypass along the lower San Joaquin River.

**Action 5.2.3:** Request that the Department of Water Resources encourage greater infiltration as part of watershed management planning.

## **Goal 6: Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and strategic levee investments**

**Strategy 6.1:** Significantly improve levels of emergency protection for people, assets, and resources.

**Action 6.1.1:** Complete a Delta-wide regional emergency response plan by 2010 that establishes legally binding regional coordination.

**Action 6.1.2:** Immediately begin a comprehensive series of emergency management and preparation actions.

**Action 6.1.3:** Conduct a comprehensive analysis of the costs and benefits of highway protection strategies, and adopt a policy based on its findings by 2012.

**Action 6.1.4:** Complete a comprehensive analysis of the costs and benefits of infrastructure protection strategies. Adopt a policy based on its findings by 2012.

**Strategy 6.2:** Discourage inappropriate land uses in the Delta region.

**Action 6.2.1:** Immediately strengthen land use oversight of the Cosumnes/Mokelumne floodway and the San Joaquin/South Delta lowlands.

**Action 6.2.2:** Immediately strengthen land use oversight for Bethel Island, the city of Isleton, and Brannan-Andrus Island.

**Action 6.2.3:** Immediately prepare local plans for these five at-risk locations within the primary zone: Walnut Grove (including the residential area on Grand Island), Locke, Clarksburg, Courtland, and Terminous.

**Action 6.2.4:** Immediately form a landowner consortium to create a new land use strategy that fosters recreation, increases habitat, reverses subsidence, sequesters carbon, improves handling of dredged material, and continues appropriate agriculture on Sherman, Twitchell, and Jersey Islands.

**Strategy 6.3:** Prepare a comprehensive long-term levee investment strategy that matches the level of protection provided by Delta levees and the uses of land and water enabled by those levees.

**Action 6.3.1:** Require the Department of Water Resources, in cooperation with local Reclamation Districts and other agencies, to develop a comprehensive plan for Delta levee investments.

**Action 6.3.2:** Prioritize the \$750 million appropriated by Proposition 1E and Proposition 84 funds for the improvement of Delta levees, including in legacy towns.

**Action 6.3.3:** Require those preparing the comprehensive levee plan to incorporate the Delta Levees Classification Table to ensure consistency between levee designs and the uses of land and water enabled by those levees.

**Action 6.3.4:** Continue the existing Department of Water Resources levee subventions program until the comprehensive levee plan is completed.

**Action 6.3.5:** Vest continuing authority for levee priorities and funding with the California Delta Ecosystem and Water Council to ensure a cost-effective and sustainable relationship between levee investments and management of the Delta over the long term.

## **Goal 7: Establish a new governance structure with the authority, responsibility, accountability, science support, and secure funding to achieve these goals**

**Strategy 7.1:** Establish a new California Delta Ecosystem and Water Council as a policy making, planning, regulatory, and oversight body. Abolish the existing California Bay-Delta Authority, transferring needed CALFED programs to the California Delta Ecosystem and Water Council. Establish a new Delta Conservancy to implement ecosystem restoration projects, and increase the powers of the existing Delta Protection Commission.

**Action 7.1.1:** Establish a California Delta Ecosystem and Water Council to replace the Bay-Delta Authority and take over CALFED programs.

**Action 7.1.2:** Establish a California Delta Conservancy as early as possible in the 2009 legislative session.

**Action 7.1.3:** Strengthen the Delta Protection Commission through legislation.

**Action 7.1.4:** Require the California Delta Ecosystem and Water Council to create a Delta Science and Engineering Program and a Delta Science and Engineering Board by September 1, 2009.

**Action 7.1.5:** Improve the compliance of diversions water use with all applicable laws.

**Strategy 7.2:** Require the California Delta Ecosystem and Water Council to prepare a California Delta Ecosystem and Water Plan to ensure sustained focus and enforceability among state, federal, and local entities.

**Action 7.2.1:** Develop a legally enforceable California Delta Ecosystem and Water Plan.

**Action 7.2.2:** Institutionalize adaptive management through updates to the California Delta Ecosystem and Water Plan every five years.

**Action 7.2.3:** Charge the Delta Science and Engineering Board, with support of the Delta Science and Engineering Program, to develop a science-based adaptive management program to provide for continued learning of, and adaptation to, actions implemented by state, federal, and local agencies in the Delta.

**Strategy 7.3:** Finance the activities called for in the California Delta Ecosystem and Water Plan from multiple sources.

**Action 7.3.1:** Enact a series of principles regarding design of financing into legislation authorizing the California Delta Ecosystem and Water Council.

**Action 7.3.2:** Establish a base of revenues outside the state General Fund for the work of the California Delta Ecosystem and Water Council, the Delta Conservancy, the Delta Protection Commission, and related core activities of the Department of Fish and Game, the Department of Water Resources, and the State Water Resources Control Board.

**Action 7.3.3:** Find new revenue sources beyond the traditional bond funds or public allocations.

**Strategy 7.4:** Optimize use of the CALFED Record of Decision and Coastal Zone Management Act to maximize participation of federal agencies in implementation of the California Delta Ecosystem and Water Plan.

**Action 7.4.1:** Use existing authority under the CALFED Record of Decision to maximize participation of federal agencies in implementation of the Delta Vision Strategic Plan until the California Delta Ecosystem and Water Plan is completed.

**Action 7.4.2:** Prepare the California Delta Ecosystem and Water Plan according to guidelines of the Coastal Zone Management Act, in order to achieve ongoing federal consistency.

# 1 Other Plans and Submissions

- 2 Other plans and submissions may contain strategies and actions which the Council may consider. The  
3 following is a listing of plans identified to date.

<u>Plan, Proposal, or Other Submission</u>	<u>Code Section Basis for Consideration by the Council</u>
Economic sustainability plan to be prepared by the Delta Protection Commission no later than July 1, 2011	Public Resources Code section 29759
Strategic plan to be completed by the Delta Conservancy "...within two years of hiring an executive officer..."	Public Resources Code section 32376
"...for the purposes of facilitating the planning decisions that are required to achieve the objectives of the Delta Plan...the State Water Resources Control Board is charged to develop flow criteria "...for the Delta ecosystem necessary to protect public trust resources." Scheduled to be determined within nine months of the enactment of this provision and transmitted to the council within an additional 30 days. (ten months from November 2009 is September 2010)	Water Code section 85086
"A proposal to protect, enhance, and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place, in a manner consistent with the coequal goals." To be prepared by the Delta Protection Commission, with specified contributions by the Department of Parks and Recreation and the Department of Food and Agriculture. No date for completion specified.	Water Code section 85301
The Department of Water Resources, developed in consultation with the United States Army Corps of Engineers and the Central Valley Flood Protection Board, proposal to coordinate flood and water supply operations of the State Water Project and the federal Central Valley Project. No date for completion specified.	Water Code section 85309
The Bay Delta Conservation Plan (BDCP), under specified conditions. No date for completion.	Water Code section 85320
The Act also includes provisions under which the council can incorporate other plans or other documents which may include strategies	Water Code section 85305(b) ("...emergency preparedness and response strategies...developed by the California Emergency Management Agency

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or actions relevant to the Delta Plan, including the sections to the left.

pursuant to Section 12994.5.”

Water Code section 85307 (b) “...local plans for flood protection.” (c) “...in consultation with the Department of Transportation...effects of climate change and sea level rise on the three state highways that cross the Delta.” (d) “...in consultation with the State Energy Resources Conservation and Development Commission and the Public Utilities Commission...actions to address the needs of Delta energy development, energy storage, and energy distribution.”

Water Code section 85350 (“...other completed plans...to the extent that the other plans promote the coequal goals.”

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